

# ***STATE OF MISSOURI*** **ALCOHOL & TOBACCO** **LAWS & REGULATIONS**



**INCLUDES**

**2017**

**LEGISLATIVE &  
REGULATION  
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# ***LIQUOR CONTROL LAW***

***Chapter 311, RSMo***

**STATE OF MISSOURI**

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# Chapter 311

## Liquor Control Law

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## General Provisions

**311.010. Title of law.** This law may be cited as the "Liquor Control Law". (RSMo 1939 § 4874) (1941) Right to traffic in intoxicating liquor is not a "natural right", such business not being lawful except as authorized by law. Therefore it may be fully regulated by law and such regulation does not violate natural rights of citizens. State ex rel. Klein v. Balsiger (A.), 151 S.W.2d 521. (1950) State ex rel. Hospital v. Nangle (A.), 230 S.W.2d 128.

**311.015. Purpose clause.** Alcohol is, by law, an age-restricted product that is regulated differently than other products. The provisions of this chapter establish vital state regulation of the sale and distribution of alcohol beverages in order to promote responsible consumption, combat illegal underage drinking, and achieve other important state policy goals such as maintaining an orderly marketplace composed of state-licensed alcohol producers, importers, distributors, and retailers. (L. 2007 S.B. 299 & S.B. 616)

**311.020. Definition of intoxicating liquor.** The term "intoxicating liquor" as used in this chapter shall mean and include alcohol for beverage purposes, alcoholic, spirituous, vinous, fermented, malt, or other liquors, or combination of liquors, a part of which is spirituous, vinous, or fermented, and all preparations or mixtures for beverage purposes, containing in excess of one-half of one percent by volume. All beverages having an alcoholic content of less than one-half of one percent by volume shall be exempt from the provisions of this chapter, but subject to inspection as provided by sections 196.365 to 196.445\*.

(RSMo 1939 § 4894, A.L. 1990 H.B. 1180, A.L. 2009 H.B. 132)

\*Sections 196.365 to 196.445 were repealed in 2003 by H.B. 600 merged with S.B. 175.

**311.030. Definition of person.** The term "person" as used in this chapter shall mean and include any individual, association, joint stock company, syndicate, copartnership, corporation, receiver, trustee, conservator, or other officer appointed by any state or federal court.

(RSMo 1939 § 4934)

**311.040. Application of law.** The provisions of this law shall be in force in and apply to every incorporated city, town or village in this state, whether same be organized under the general law relating to cities, towns and villages, or by special charter under the state constitution, any ordinance or charter provision of any city, town or village to the contrary notwithstanding. (RSMo 1939 § 4908) (1957) City ordinance prohibiting sales by any wholesaler to retailers who are delinquent in payment of accounts to any wholesaler held valid and not in conflict with either the liquor control law or the nonintoxicating beer law. Passler v. Johnson (Mo.), 304 S.W.2d 903.

## Licenses and Regulations

**311.050. License required.** It shall be unlawful for any person, firm, partnership or corporation to manufacture, sell or expose for sale in this state intoxicating liquor, as defined in section 311.020, in any quantity, without taking out a license. (RSMo 1939 § 4895) (1943) Objection to use of word "spirituous" in information charging sale of "spirituous intoxicating liquor" held without merit. State v. Varnon (Mo.), 174 S.W.2d 146. (1955) Where evidence showed that whiskey purchased was poured from "shot" glass into Coca-Cola bottle, that such bottle may have contained some other liquid, it was not error to admit it in evidence, in prosecution for sale without license, even though alcoholic content of liquor therein was less than that in bottle from which testimony showed it was poured. State v. Krout (Mo.), 282 S.W.2d 529.

**311.055. License to manufacture not required, personal or family use—limitation—removal from premises permitted, when—inapplicability, when.** No person at least twenty-one years of age shall be required to obtain a license to manufacture intoxicating liquor, as defined in section 311.020, for personal or family use. The aggregate amount of intoxicating liquor manufactured per household shall not exceed two hundred gallons per calendar year if there are two or more persons over the age of twenty-one years in such household, or one hundred gallons per calendar year if there is only one person over the age of twenty-one years in such household. Any intoxicating liquor manufactured under this section shall not be sold or offered for sale.

2. Beer brewed under this section may be removed from the premises where brewed for personal or family use, including use at organized events, exhibitions, or competitions, such as home brewer contests, tastings, or judging. The use may occur off licensed retail premises, on any premises under a temporary retail license issued under section\* 311.218, 311.482, 311.485, 311.486, or 311.487, or on any tax exempt organization's licensed premises as described in section 311.090.

3. Any beer brewed under this section used at an organized event where an admission fee is paid for entry, at which the beer is available without a separate charge, shall not be deemed a sale of beer, provided that the person who brewed the beer receives none of the proceeds from the admission fee and all consumption is conducted off licensed retail premises, under the premises of a temporary retail license issued under section 311.218, 311.482, 311.485, 311.486, or 311.487, or on any tax exempt organization's licensed premises as described in section 311.090.

(L. 1995 S.B. 468, A.L. 2009 H.B. 132, A.L. 2013 S.B. 121, A.L. 2014 H.B. 1304)

\*Word "sections" appears in original rolls.

### **311.060. Qualifications for licenses—resident corporation and financial interest defined—revocation, effect of, new license, when.**

1. No person shall be granted a license hereunder unless such person is of good moral character and a qualified legal voter and a taxpaying citizen of the county, town, city or village, nor shall any corporation be granted a license hereunder unless the managing officer of such corporation is of good moral character and a qualified legal voter and taxpaying citizen of the county, town, city or village; and, except as otherwise provided under subsection 7 of this section, no person shall be granted a license or permit hereunder whose license as such dealer has been revoked, or who has been convicted, since the ratification of the twenty-first amendment to the Constitution of the United States, of a violation of the provisions of any law applicable to the manufacture or sale of intoxicating liquor, or who employs in his or her business as such dealer any person whose license has been revoked unless five years have passed since the revocation as provided under subsection 6 of this section, or who has been convicted of violating such law since the date aforesaid; provided, that nothing in this section contained shall prevent the issuance of licenses to nonresidents of Missouri or foreign corporations for the privilege of selling to duly licensed wholesalers and soliciting orders for the sale of intoxicating liquors to, by or through a duly licensed wholesaler, within this state.

2. (1) No person, partnership or corporation shall be qualified for a license under this law if such person, any member of such partnership, or such corporation, or any officer, director, or any stockholder owning, legally or beneficially, directly or indirectly, ten percent or more of the stock of such corporation, or other financial interest therein, or ten percent or more of the interest in the business for which the person, partnership or corporation is licensed, or any person employed in the business licensed under this law shall have had a license revoked under this law except as otherwise provided under subsections 6 and 7 of this section, or shall have been convicted of violating the provisions of any law applicable to the manufacture or sale of intoxicating liquor since the ratification of the twenty-first amendment to the Constitution of the United States, or shall not be a person of good moral character.

(2) No license issued under this chapter shall be denied, suspended, revoked or otherwise affected based solely on the fact that an employee of the licensee has been convicted of a felony unrelated to the manufacture or sale of intoxicating liquor. Each employer shall report the identity of any employee convicted of a felony to the division of liquor control. The division of liquor control shall promulgate rules to enforce the provisions of this subdivision.

(3) No wholesaler license shall be issued to a corporation for the sale



of intoxicating liquor containing alcohol in excess of five percent by weight, except to a resident corporation as defined in this section.

3. A “**resident corporation**” is defined to be a corporation incorporated under the laws of this state, all the officers and directors of which, and all the stockholders, who legally and beneficially own or control sixty percent or more of the stock in amount and in voting rights, shall be qualified legal voters and taxpaying citizens of the county and municipality in which they reside and who shall have been bona fide residents of the state for a period of three years continuously immediately prior to the date of filing of application for a license, provided that a stockholder need not be a voter or a taxpayer, and all the resident stockholders of which shall own, legally and beneficially, at least sixty percent of all the financial interest in the business to be licensed under this law; provided, that no corporation, licensed under the provisions of this law on January 1, 1947, nor any corporation succeeding to the business of a corporation licensed on January 1, 1947, as a result of a tax-free reorganization coming within the provisions of Section 112, United States Internal Revenue Code, shall be disqualified by reason of the new requirements herein, except corporations engaged in the manufacture of alcoholic beverages containing alcohol in excess of five percent by weight, or owned or controlled, directly or indirectly, by nonresident persons, partnerships or corporations engaged in the manufacture of alcoholic beverages containing alcohol in excess of five percent by weight.

4. The term “**financial interest**” as used in this chapter is defined to mean all interest, legal or beneficial, direct or indirect, in the capital devoted to the licensed enterprise and all such interest in the net profits of the enterprise, after the payment of reasonable and necessary operating business expenses and taxes, including interest in dividends, preferred dividends, interest and profits, directly or indirectly paid as compensation for, or in consideration of interest in, or for use of, the capital devoted to the enterprise, or for property or money advanced, loaned or otherwise made available to the enterprise, except by way of ordinary commercial credit or bona fide bank credit not in excess of credit customarily granted by banking institutions, whether paid as dividends, interest or profits, or in the guise of royalties, commissions, salaries, or any other form whatsoever.

5. The supervisor shall by regulation require all applicants for licenses to file written statements, under oath, containing the information reasonably required to administer this section. Statements by applicants for licenses as wholesalers and retailers shall set out, with other information required, full information concerning the residence of all persons financially interested in the business to be licensed as required by regulation. All material changes in the information filed shall be promptly reported to the supervisor.

6. Any person whose license or permit issued under this chapter has been revoked shall be automatically eligible to work as an employee of an establishment holding a license or permit under this chapter five years after the date of the revocation.

7. Any person whose license or permit issued under this chapter has been revoked shall be eligible to apply and be qualified for a new license or permit five years after the date of the revocation. The person may be issued a new license or permit at the discretion of the division of alcohol and tobacco control. If the division denies the request for a new permit or license, the person may not submit a new application for five years from the date of the denial. If the application is approved, the person shall pay all fees required by law for the license or permit. Any person whose request for a new license or permit is denied may seek a determination by the administrative hearing commission as provided under section 311.691.

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(RSMo 1939 § 4906, A.L. 1947 V. I p. 370, A.L. 1987 H.B. 520 merged with H.B. 62 & 70, A.L. 2009 H.B. 132, A.L. 2016 S.B. 994)

\*Effective 10-14-16, see § 21.250. S.B. 994 was vetoed July 1, 2016. The veto was overridden on September 14, 2016.

(1972) Eligibility for employee's liquor permit, lost following applicant's conviction of violation of federal tax laws involving sale and manufacture of intoxicating liquors, was reinstated by Presidential Pardon received after service in armed forces. *Damiano v. Burge* (A.), 481 S.W.2d 562.

(1973) Conviction on misdemeanor charge of possessing obscene literature by 100% stockholder held sufficient grounds for refusal of liquor by the drink license. *Peppermint Lounge Inc. v. Wright* (Mo.), 498 S.W.2d 749.

(1975) Held governor's power to pardon is limited to criminal prosecutions and does not extend to administrative revocation of license. The court also held that the governor has no authority to “order” an action by the director of liquor control when the statute places such duty on the director. *Theodoro v. Department of Liquor Control* (Mo.), 527 S.W.2d 350.

**311.061. Stock ownership not deemed financial interest, when.** Notwithstanding the definition of “financial interest” contained in section 311.060, service as a member of the board of directors of a corporation, the stock of which is traded on the New York or American Stock Exchange or NASDAQ, or ownership of less than ten percent of the outstanding shares in such corporation, shall not constitute a financial interest in such corporation or a subsidiary thereof.

(L. 1985 H.B. 166, A.L. 1994 S.B. 474)

**311.070. Financial interest in retail businesses by certain licensees prohibited, exceptions--penalties--definitions--activities permitted between wholesalers and licensees--certain contracts unenforceable--contributions to certain organizations permitted, when--sale of Missouri wines only, license issued, when.**

1. Distillers, wholesalers, winemakers, brewers or their employees, officers or agents shall not, except as provided in this section, directly or indirectly, have any financial interest in the retail business for sale of intoxicating liquors, and shall not, except as provided in this section, directly or indirectly, loan, give away or furnish equipment, money, credit or property of any kind, except ordinary commercial credit for liquors sold to such retail dealers. However, notwithstanding any other provision of this chapter to the contrary, for the purpose of the promotion of tourism, a distiller whose manufacturing establishment is located within this state may apply for and the supervisor of liquor control may issue a license to sell intoxicating liquor, as in this chapter defined, by the drink at retail for consumption on the premises where sold; and provided further that the premises so licensed shall be in close proximity to the distillery and may remain open between the hours of 6:00 a.m. and 1:30 a.m., Monday through Saturday and between the hours of 9:00 a.m. and midnight, Sunday. The authority for the collection of fees by cities and counties as provided in section 311.220, and all other laws and regulations relating to the sale of liquor by the drink for consumption on the premises where sold, shall apply to the holder of a license issued under the provisions of this section in the same manner as they apply to establishments licensed under the provisions of section 311.085, 311.090, or 311.095.

2. Any distiller, wholesaler, winemaker or brewer who shall violate the provisions of subsection 1 of this section, or permit his employees, officers or agents to do so, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished as follows:

- (1) For the first offense, by a fine of one thousand dollars;
- (2) For a second offense, by a fine of five thousand dollars; and
- (3) For a third or subsequent offense, by a fine of ten thousand dollars or the license of such person shall be revoked.

3. As used in this section, the following terms mean:

(1) “**Consumer advertising specialties**”, advertising items that are designed to be carried away by the consumer, such items include, but are not limited to: trading stamps, nonalcoholic mixers, pouring racks,

ash trays, bottle or can openers, cork screws, shopping bags, matches, printed recipes, pamphlets, cards, leaflets, blotters, postcards, pencils, shirts, caps and visors;

(2) **"Equipment and supplies"**, glassware (or similar containers made of other material), dispensing accessories, carbon dioxide (and other gasses used in dispensing equipment) or ice. "Dispensing accessories" include standards, faucets, cold plates, rods, vents, taps, tap standards, hoses, washers, couplings, gas gauges, vent tongues, shanks, and check valves;

(3) **"Permanent Point-of-sale advertising materials"**, advertising items designed to be used within a retail business establishment for an extended period of time to attract consumer attention to the products of a distiller, wholesaler, winemaker or brewer. Such materials shall only include inside signs (electric, mechanical or otherwise), mirrors, and sweepstakes/contest prizes displayed on the licensed premises;

(4) **"Product display"**, wine racks, bins, barrels, casks, shelving or similar items the primary function of which is to hold and display consumer products;

(5) **"Promotion"**, an advertising and publicity campaign to further the acceptance and sale of the merchandise or products of a distiller, wholesaler, winemaker or brewer;

(6) **"Temporary point-of-sale advertising materials"**, advertising items designed to be used for short periods of time. Such materials include, but are not limited to: banners, decorations reflecting a particular season or a limited-time promotion, or paper napkins, coasters, cups, or menus.

4. Notwithstanding other provisions contained herein, the distiller, wholesaler, winemaker or brewer, or their employees, officers or agents may engage in the following activities with a retail licensee licensed pursuant to this chapter:

(1) The distiller, wholesaler, winemaker or brewer may give or sell product displays to a retail business if all of the following requirements are met:

(a) The total value of all product displays given or sold to a retail business shall not exceed three hundred dollars per brand at any one time in any one retail outlet. There shall be no combining or pooling of the three hundred dollar limits to provide a retail business a product display in excess of three hundred dollars per brand. The value of a product display is the actual cost to the distiller, wholesaler, winemaker or brewer who initially purchased such product display. Transportation and installation costs shall be excluded;

(b) All product displays shall bear in a conspicuous manner substantial advertising matter on the product or the name of the distiller, wholesaler, winemaker or brewer. The name and address of the retail business may appear on the product displays; and

(c) The giving or selling of product displays may be conditioned on the purchase of intoxicating beverages advertised on the displays by the retail business in a quantity necessary for the initial completion of the product display. No other condition shall be imposed by the distiller, wholesaler, winemaker or brewer on the retail business in order for such retail business to obtain the product display;

(2) Notwithstanding any provision of law to the contrary, the distiller, wholesaler, winemaker or brewer may provide, give or sell any permanent point-of-sale advertising materials, and consumer advertising specialties to a retail business if all the following requirements are met:

(a) The total value of all permanent point-of-sale advertising materials provided to a retail business by a distiller, wholesaler, winemaker,

or brewer shall not exceed five hundred dollars per calendar year, per brand, per retail outlet. The value of permanent point-of-sale advertising materials is the actual cost to the distiller, wholesaler, winemaker or brewer who initially purchased such item. Transportation and installation costs shall be excluded. All permanent point-of-sale advertising materials provided to a retailer shall be recorded, and records shall be maintained for a period of three years;

(b) The provider of permanent point-of-sale advertising materials shall own and otherwise control the use of permanent point-of-sale advertising materials that are provided by any distiller, wholesaler, winemaker, or brewer;

(c) All permanent point-of-sale advertising materials, temporary point-of-sale advertising materials, and consumer advertising specialties shall bear in a conspicuous manner substantial advertising matter about the product or the name of the distiller, wholesaler, winemaker or brewer. The name, address and logos of the retail business may appear on the permanent point-of-sale advertising materials, temporary point-of-sale advertising materials, or the consumer advertising specialties; and

(d) The distiller, wholesaler, winemaker or brewer shall not directly or indirectly pay or credit the retail business for using or distributing the permanent point-of-sale advertising materials, temporary point-of-sale advertising materials, or consumer advertising specialties or for any incidental expenses arising from their use or distribution;

(3) A distiller, wholesaler, winemaker, or brewer may give a gift not to exceed a value of one thousand dollars per year to a holder of a temporary permit as defined in section 311.482;

(4) The distiller, wholesaler, winemaker or brewer may sell equipment or supplies to a retail business if all the following requirements are met:

(a) The equipment and supplies shall be sold at a price not less than the cost to the distiller, wholesaler, winemaker or brewer who initially purchased such equipment and supplies; and

(b) The price charged for the equipment and supplies shall be collected in accordance with credit regulations as established in the code of state regulations;

(5) The distiller, wholesaler, winemaker or brewer may install dispensing accessories at the retail business establishment, which shall include for the purposes of beer equipment to properly preserve and serve draught beer only and to facilitate the delivery to the retailer the brewers and wholesalers may lend, give, rent or sell and they may install or repair any of the following items or render to retail licensees any of the following services: beer coils and coil cleaning, sleeves and wrappings, box couplings and draft arms, beer faucets and tap markers, beer and air hose, taps, vents and washers, gauges and regulators, beer and air distributors, beer line insulation, coil flush hose, couplings and bucket pumps; portable coil boxes, air pumps, blankets or other coverings for temporary wrappings of barrels, coil box overflow pipes, tilting platforms, bumper boards, skids, cellar ladders and ramps, angle irons, ice box grates, floor runways; and damage caused by any beer delivery excluding normal wear and tear and a complete record of equipment furnished and installed and repairs and service made or rendered must be kept by the brewer or wholesalers furnishing, making or rendering same for a period of not less than one year;

(6) The distiller, wholesaler, winemaker or brewer may furnish, give or sell coil cleaning service to a retailer of distilled spirits, wine or malt beverages;

(7) A wholesaler of intoxicating liquor may furnish or give and a retailer may accept a sample of distilled spirits or wine as long as the retailer has not previously purchased the brand from that wholesaler, if

all the following requirements are met:

(a) The wholesaler may furnish or give not more than seven hundred fifty milliliters of any brand of distilled spirits and not more than seven hundred fifty milliliters of any brand of wine; if a particular product is not available in a size within the quantity limitations of this subsection, a wholesaler may furnish or give to a retailer the next larger size;

(b) The wholesaler shall keep a record of the name of the retailer and the quantity of each brand furnished or given to such retailer;

(c) For the purposes of this subsection, no samples of intoxicating liquor provided to retailers shall be consumed on the premises nor shall any sample of intoxicating liquor be opened on the premises of the retailer except as provided by the retail license;

(d) For the purpose of this subsection, the word "brand" refers to differences in brand name of product or differences in nature of product; examples of different brands would be products having a difference in: brand name; class, type or kind designation; appellation of origin (wine); viticulture area (wine); vintage date (wine); age (distilled spirits); or proof (distilled spirits); differences in packaging such as different style, type, size of container, or differences in color or design of a label are not considered different brands;

(8) The distiller, wholesaler, winemaker or brewer may package and distribute intoxicating beverages in combination with other nonalcoholic items as originally packaged by the supplier for sale ultimately to consumers; notwithstanding any provision of law to the contrary, for the purpose of this subsection, intoxicating liquor and wine wholesalers are not required to charge for nonalcoholic items any more than the actual cost of purchasing such nonalcoholic items from the supplier;

(9) The distiller, wholesaler, winemaker or brewer may sell or give the retail business newspaper cuts, mats or engraved blocks for use in the advertisements of the retail business;

(10) The distiller, wholesaler, winemaker or brewer may in an advertisement list the names and addresses of two or more unaffiliated retail businesses selling its product if all of the following requirements are met:

(a) The advertisement shall not contain the retail price of the product;

(b) The listing of the retail businesses shall be the only reference to such retail businesses in the advertisement;

(c) The listing of the retail businesses shall be relatively inconspicuous in relation to the advertisement as a whole; and

(d) The advertisement shall not refer only to one retail business or only to a retail business controlled directly or indirectly by the same retail business;

(11) Distillers, winemakers, wholesalers, brewers or retailers may conduct a local or national sweepstakes/contest upon a licensed retail premise. The sweepstakes/contest prize dollar amount shall not be limited and can be displayed in a photo, banner, or other temporary point-of-sale advertising materials on a licensed premises, if the following requirements are met;

(a) No money of something of value is given to the retailer for the privilege or opportunity of conducting the sweepstakes or contest; and

(b) The actual sweepstakes/contest prize is not displayed on the licensed premises if the prize value exceeds the permanent point-of-sale advertising materials dollar limit provided in this section;

(12) The distiller, wholesaler, winemaker or brewer may stock, rotate, rearrange or reset the products sold by such distiller, wholesaler, wine-maker or brewer at the establishment of the retail business so long as the products of any other distiller, wholesaler, winemaker or brewer

are not altered or disturbed;

(13) The distiller, wholesaler, winemaker or brewer may provide a recommended shelf plan or shelf schematic for distilled spirits, wine or malt beverages;

(14) The distiller, wholesaler, winemaker or brewer participating in the activities of a retail business association may do any of the following:

(a) Display, serve, or donate its products at or to a convention or trade show;

(b) Rent display booth space if the rental fee is the same paid by all others renting similar space at the association activity;

(c) Provide its own hospitality which is independent from the association activity;

(d) Purchase tickets to functions and pay registration fees if such purchase or payment is the same as that paid by all attendees, participants or exhibitors at the association activity; and

(e) Make payments for advertisements in programs or brochures issued by retail business associations if the total payments made for all such advertisements are fair and reasonable;

(f) Pay dues to the retail business association if such dues or payments are fair and reasonable;

(g) Make payments or donations for retail employee training on preventive sales to minors and intoxicated persons, checking identifications, age verification devices, and the liquor control laws;

(h) Make contributions not to exceed one thousand dollars per calendar year for transportation services that shall be used to assist patrons from retail establishments to his or her residence or overnight accommodations;

(i) Donate or serve up to five hundred dollars per event of alcoholic products at retail business association activities; and

(j) Any retail business association that receives payments or donations shall, upon written request, provide the division of alcohol and tobacco control with copies of relevant financial records and documents to ensure compliance with this subsection;

(15) The distiller, wholesaler, winemaker or brewer may sell or give a permanent outside sign to a retail business if the following requirements are met:

(a) The sign, which shall be constructed of metal, glass, wood, plastic, or other durable, rigid material, with or without illumination, or painted or otherwise printed onto a rigid material or structure, shall bear in a conspicuous manner substantial advertising matter about the product or the name of the distiller, wholesaler, winemaker, or brewer;

(b) The retail business shall not be compensated, directly or indirectly, for displaying the permanent sign or a temporary banner;

(c) The cost of the permanent sign shall not exceed five hundred dollars; and

(d) Temporary banners of a seasonal nature or promoting a specific event shall not be constructed to be permanent outdoor signs and may be provided to retailers. The total cost of temporary outdoor banners provided to a retailer in use at any one time shall not exceed five hundred dollars per brand;

(16) A wholesaler may, but shall not be required to, exchange for an equal quantity of identical product or allow credit against outstanding indebtedness for intoxicating liquor with alcohol content of less than five percent by weight that was delivered in a damaged condition or damaged while in the possession of the retailer;

(17) To assure and control product quality, wholesalers at the time of a regular delivery may, but shall not be required to, withdraw, with the permission of the retailer, a quantity of intoxicating liquor with alcohol content of less than five percent by weight in its undamaged original carton from the retailer's stock, if the wholesaler replaces the product with an equal quantity of identical product;

(18) In addition to withdrawals authorized pursuant to subdivision (17) of this subsection, to assure and control product quality, wholesalers at the time of a regular delivery may, but shall not be required to, withdraw, with the permission of the retailer, a quantity of intoxicating liquor with alcohol content of less than five percent by weight in its undamaged original carton from the retailer's stock and give the retailer credit against outstanding indebtedness for the product if:

(a) The product is withdrawn at least thirty days after initial delivery and within twenty-one days of the date considered by the manufacturer of the product to be the date the product becomes inappropriate for sale to a consumer; and

(b) The quantity of product withdrawn does not exceed the equivalent of twenty-five cases of twenty-four twelve-ounce containers; and

(c) To assure and control product quality, a wholesaler may, but not be required to, give a retailer credit for intoxicating liquor with an alcohol content of less than five percent by weight in a container with a capacity of four gallons or more, delivered but not used, if the wholesaler removes the product within seven days of the initial delivery; and

(19) Nothing in this section authorizes consignment sales.

5. (1) A distiller, wholesaler, winemaker, or brewer that is also in business as a bona fide producer or vendor of nonalcoholic beverages shall not condition the sale of its alcoholic beverages on the sale of its nonalcoholic beverages nor combine the sale of its alcoholic beverages with the sale of its nonalcoholic beverages, except as provided in subdivision (8) of subsection 4 of this section. The distiller, wholesaler, winemaker, or brewer that is also in business as a bona fide producer or vendor of nonalcoholic beverages may sell, credit, market, and promote nonalcoholic beverages in the same manner in which the nonalcoholic products are sold, credited, marketed, or promoted by a manufacturer or wholesaler not licensed by the supervisor of alcohol and tobacco control;

(2) Any fixtures, equipment, or furnishings provided by any distiller, wholesaler, winemaker, or brewer in furtherance of the sale of nonalcoholic products shall not be used by the retail licensee to store, service, display, advertise, furnish, or sell, or aid in the sale of alcoholic products regulated by the supervisor of alcohol and tobacco control. All such fixtures, equipment, or furnishing shall be identified by the retail licensee as being furnished by a licensed distiller, wholesaler, winemaker, or brewer.

6. Distillers, wholesalers, brewers and winemakers, or their officers or directors shall not require, by agreement or otherwise, that any retailer purchase any intoxicating liquor from such distillers, wholesalers, brewers or winemakers to the exclusion in whole or in part of intoxicating liquor sold or offered for sale by other distillers, wholesalers, brewers, or winemakers.

7. Notwithstanding any other provisions of this chapter to the contrary, a distiller or wholesaler may install dispensing accessories at the retail business establishment, which shall include for the purposes of distilled spirits, equipment to properly preserve and serve premixed distilled spirit beverages only. To facilitate delivery to the retailer, the distiller or wholesaler may lend, give, rent or sell and the distiller or wholesaler may install or repair any of the following items or render to

retail licensees any of the following services: coils and coil cleaning, draft arms, faucets and tap markers, taps, tap standards, tapping heads, hoses, valves and other minor tapping equipment components, and damage caused by any delivery excluding normal wear and tear. A complete record of equipment furnished and installed and repairs or service made or rendered shall be kept by the distiller or wholesaler, furnishing, making or rendering the same for a period of not less than one year.

8. Distillers, wholesalers, winemakers, brewers or their employees or officers shall be permitted to make contributions of money or merchandise to a licensed retail liquor dealer that is a charitable, fraternal, civic, service, veterans', or religious organization as defined in section 313.005, RSMo, or an educational institution if such contributions are unrelated to such organization's retail operations.

9. Distillers, brewers, wholesalers, and winemakers may make payments for advertisements in programs or brochures of tax-exempt organizations licensed under section 311.090 if the total payments made for all such advertisements are the same as those paid by other vendors.

10. A brewer or manufacturer, its employees, officers or agents may have a financial interest in the retail business for sale of intoxicating liquors at entertainment facilities owned, in whole or in part, by the brewer or manufacturer, its subsidiaries or affiliates including, but not limited to, arenas and stadiums used primarily for concerts, shows and sporting events of all kinds.

11. For the purpose of the promotion of tourism, a wine manufacturer, its employees, officers or agents located within this state may apply for and the supervisor of liquor control may issue a license to sell intoxicating liquor, as defined in this chapter, by the drink at retail for consumption on the premises where sold, if the premises so licensed is in close proximity to the winery. Such premises shall be closed during the hours specified under section 311.290 and may remain open between the hours of 9:00 a.m. and midnight on Sunday.

12. For the purpose of the promotion of tourism, a person may apply for and the supervisor of liquor control may issue a license to sell intoxicating liquor by the drink at retail for consumption on the premises where sold, but seventy-five percent or more of the intoxicating liquor sold by such licensed person shall be Missouri-produced wines received from manufacturers licensed under section 311.190. Such premises may remain open between the hours of 6:00 a.m. and midnight, Monday through Saturday, and between the hours of 11:00 a.m. and 9:00 p.m. on Sundays.

(RSMo 1939 § 4879, A.L. 1984 S.B. 441, A.L. 1986 S.B. 444, A.L. 1987 H.B. 62 & 70, A.L. 1995 S.B. 43, A.L. 1996 S.B. 933, A.L. 2000 H.B. 1631, A.L. 2002 S.B. 834, A.L. 2005 S.B. 262, A.L. 2007 S.B. 299 & S.B. 616, A.L. 2009 H.B. 132, A.L. 2017 H.B. 115)

### **311.071. Special events, not-for-profit organizations, contributions of money permitted, when.**

1. Distillers, wholesalers, winemakers, brewers, or their employees or officers may make contributions of money for special events where alcohol is sold at retail to a not-for-profit organization that:

(1) Does not hold a liquor license;

(2) Less than forty percent of the members and officers are liquor licensees;

(3) Is registered with the secretary of state as a not-for-profit organization; and

(4) Of which no part of the net earnings or contributions inures to the benefit of any private shareholder or any retail licensee member of such organization. The contributions from distillers, wholesalers,

winemakers, brewers, or their employees or officers shall be used to pay special event infrastructure expenses unrelated to any retail alcohol sales, which include, but are not limited to: security, sanitation, fencing, entertainment, and advertising.

2. Distillers, wholesalers, winemakers, brewers, retailers, or their employees or officers may make contributions of money for festivals as defined in section 316.150 where alcohol is sold at retail to a not-for-profit organization that:

(1) Is registered with the secretary of state as a not-for-profit organization;

(2) Of which no part of the net earnings or contributions, directly or indirectly, inures to the benefit of any private shareholder or any retail licensee member of such organization; and

(3) Uses the contributions from distillers, wholesalers, winemakers, brewers, retailers, or their employees or officers only to pay special event infrastructure expenses unrelated to any retail alcohol sales, which include, but are not limited to, security, sanitation, fencing, advertising and transportation.

3. Any not-for-profit organization that receives contributions under this section shall allow the division of alcohol and tobacco control full access to the organization's records for audit purposes.

(L. 2007 S.B. 299 & S.B. 616, A.L. 2013 S.B. 121)

#### **311.075. Financial interests in distillery in close proximity to a recreational resort.**

1. Notwithstanding any other provisions of this chapter to the contrary, for the purpose of the promotion of tourism, a retailer, its employees, officers, shareholders, and agents may have a financial interest in a distillery for the manufacturing of intoxicating liquors located in close proximity to the grounds of a recreational resort owned, in whole or in part, by the retailer, its subsidiaries, or affiliates. As used in this section, the term "recreational resort" shall mean any grounds used to entertain guests that are owned and operated as part of a facility by the retailer, its subsidiaries, or affiliates, which shall have a restaurant, at least thirty rooms for overnight accommodations, and outdoor activities that include fishing or golf. The distillery shall be in close proximity to the grounds of the recreational resort.

2. A retailer who is a holder of a license to sell intoxicating liquor by the drink at retail for consumption on the recreational resort's grounds shall be exempt from the provisions of section 311.280, for such intoxicating liquor that is manufactured in close proximity to the grounds of the recreational resort in accordance with the provisions of this chapter. All other intoxicating liquor sold by the drink at retail for consumption on the recreational resort's grounds shall be obtained in accordance with section 311.280.

3. The holder of a recreational resort distillery license\* pursuant to this section may also sell intoxicating liquor produced on the distillery premises to duly licensed wholesalers, and all such sales to wholesalers shall be subject to the provisions of sections 311.275 and 311.540. However, holders of a recreational resort distillery license shall not, under any circumstances, directly or indirectly, have any financial interest in any Missouri wholesaler's business.

(L. 2017 H.B. 115) \*Word "licensed" appears in original rolls.

#### **311.080. Sale of liquor prohibited near schools and churches, exceptions.**

1. No license shall be granted for the sale of intoxicating liquor, as defined in this chapter, within one hundred feet of any school, church or

other building regularly used as a place of religious worship, unless the applicant for the license shall first obtain the consent in writing of the board of aldermen, city council, or other proper authorities of any incorporated city, town, or village, except that when a school, church or place of worship shall hereafter be established within one hundred feet of any place of business licensed to sell intoxicating liquor, the license shall not be denied for this reason. Such consent shall not be granted until at least ten days' written notice has been provided to all owners of property within one hundred feet of the proposed licensed premises.

2. The board of aldermen, city council or other proper authorities of any incorporated city, town or village may by ordinance prohibit the granting of a license for the sale of intoxicating liquor within a distance as great as three hundred feet of any school, church, or other building regularly used as a place of religious worship. In such cases, and where the ordinance has been lawfully enacted, no license of any character shall be issued in conflict with the ordinance while it is in effect; except, that when a school, church or place of worship is established within the prohibited distance from any place of business licensed to sell intoxicating liquor, the license shall not be denied for this reason.

3. Subsection 1 of this section shall not apply to a license issued by the supervisor of alcohol and tobacco control for the sale of intoxicating liquor pursuant to section 311.218 or to a license issued to any church, school, civic, service, fraternal, veteran, political, or charitable club or organization which has obtained an exemption from the payment of federal taxes.

4. Subsection 1 of this section shall not apply to any premises holding a license issued before January 1, 2004, by the supervisor of alcohol and tobacco control for the sale of intoxicating liquor. To retain a license under this subsection, the licensed premises shall not change license type, amend the legal description, or be without a liquor license for more than ninety days.

(RSMo 1939 § 4948, A.L. 1959 H.B. 139, A.L. 2003 S.B. 298, A.L. 2005 S.B. 262)

#### **311.082. Labeling of kegs sold at retail for off-premise consumption, procedures.**

1. As used in this section, the following terms shall mean:

(1) "Keg", any container capable of holding four gallons or more of beer, wine, or intoxicating liquor and which is designed to dispense beer, wine, or intoxicating liquor directly from the container for purposes of consumption. Any nonreturnable container with a capacity of less than six gallons shall not be considered a keg under this section;

(2) "Supervisor of alcohol and tobacco control", the person appointed pursuant to section 311.610.

2. Each keg sold at retail for off-premise consumption shall be labeled with a numbered identification tag. The division of alcohol and tobacco control may prescribe the numbered identification tags to be used for this purpose. The recyclable numbered identification tag shall be affixed to the handle on the top chime of the keg. The recyclable numbered identification tag shall be supplied by the division of alcohol and tobacco control without fee and securely affixed to the keg by the licensee making the sale.

3. Each retail licensee shall require each keg purchaser to present valid identification and a minimum deposit of fifty dollars per keg at the time of purchase. On the identification form provided by the division of alcohol and tobacco control the licensee shall record for each keg sale the date of sale, the size of keg, keg tag identification number, the amount of container deposit, the name, address, and date of birth of the purchaser, and the form of identification presented by such purchaser. The purchaser shall sign a statement at the time of purchase attesting to the accuracy of the purchaser's name and address and

acknowledging that misuse of the keg or its contents may result in civil liability, criminal prosecution, or both. The licensee shall retain the identification form for a minimum of three months following the sale of the keg.

4. The licensee shall not refund a deposit for a keg that is returned without the numbered identification tag intact and legible. The licensee shall record the date of return of the keg and the condition of the numbered identification tag on the identification form required pursuant to subsection 3 of this section. The licensee may retain any deposit not refunded for this reason. Upon the return of a properly tagged keg from a consumer, the licensee shall remove the tag from the keg and retain such tag with the identification form as required pursuant to subsection 3 of this section.

5. The supervisor shall promulgate rules and regulations for the administration of this section and shall design all necessary forms. No rule, regulation, or portion of a rule or regulation promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to chapter 536, RSMo.

6. The provisions of this section shall become effective on July 1, 2004.

7. This section shall fully preempt and supersede any ordinances, rules, or regulations made by any city, county, or other political subdivision of the state of Missouri which regulate the selling, labeling, or registering of kegs. This section shall not impose any new or additional civil or criminal liability upon the retail licensee.

(L. 2003 S.B. 298 § 1, A.L. 2005 S.B. 262)

**311.085. License for sale of intoxicating liquor by the drink in unincorporated areas of county—sale of malt liquor and light wines by drink and in package, annual fee (first class charter counties).** Any person possessing the qualifications and meeting the requirements of this chapter and the ordinances, rules and regulations of the first class county having a charter form of government in which such licensee proposes to operate his business may apply for, and the supervisor of liquor control may issue, a license for the sale by the drink of intoxicating liquor on the premises described in the application. This license shall be valid only for premises located wholly within the unincorporated areas of such a county.

(L. 1967 p. 423, A.L. 1981 S.B. 126, A.L. 1994 S.B. 474 merged with S.B. 710, A.L. 1995 S.B. 43)

**311.086. Portable bars, entertainment district special license—definitions—issuance, procedure (Kansas City).**

1. As used in this section, the following terms mean:

(1) **"Common area"**, any area designated as a common area in a development plan for the entertainment district approved by the governing body of the city, any area of a public right-of-way that is adjacent to or within the entertainment district when it is closed to vehicular traffic and any other area identified in the development plan where a physical barrier precludes motor vehicle traffic and limits pedestrian accessibility;

(2) **"Entertainment district"**, any area located in a home rule city with more than four hundred thousand inhabitants and located in more than one county with a population of at least four thousand inhabitants that:

(a) Is located in the city's central business district which is the historic core locally known as the city's downtown area;

(b) Contains a combination of entertainment venues, bars, nightclubs, and restaurants; and

(c) Is designated as a redevelopment area by the governing body of the city under and pursuant to the Missouri downtown and rural economic stimulus act, sections 99.915 to 99.1060, RSMo;

(3) **"Portable bar"**, any bar, table, kiosk, cart, or stand that is not a permanent fixture and can be moved from place to place;

(4) **"Promotional association"**, an association, incorporated in the state of Missouri, which is organized or authorized by one or more property owners located within the entertainment district, who own or otherwise control not less than one hundred thousand square feet of premises designed, constructed, and available for lease for bars, nightclubs, restaurants, and other entertainment venues, for the purpose of organizing and promoting activities within the entertainment district. For purposes of determining ownership or control as set forth in this subdivision, the square footage of premises used for residential, office or retail uses, (other than bars, nightclubs, restaurants, and other entertainment venues), parking facilities, and hotels within the entertainment district shall not be used in the calculation of square footage.

2. Notwithstanding any other provisions of this chapter to the contrary, any person acting on behalf of or designated by a promotional association, who possesses the qualifications required by this chapter, and who meets the requirements of and complies with the provisions of this chapter, may apply for, and the supervisor of alcohol and tobacco control may issue, an entertainment district special license to sell intoxicating liquor by the drink for retail for consumption dispensed from one or more portable bars within the common areas of the entertainment district until 3:00 a.m. on Mondays through Saturdays and from 9:00 a.m. until 12:00 midnight on Sundays.

3. An applicant granted an entertainment district special license under this section shall pay a license fee of three hundred dollars per year.

4. Notwithstanding any other provision of this chapter to the contrary, on such days and at such times designated by the promotional association, in its sole discretion, provided such times are during the hours a license is allowed under this chapter to sell alcoholic beverages, the promotional association may allow persons to leave licensed establishments, located in portions of the entertainment district designated by the promotional association, with an alcoholic beverage and enter upon and consume the alcoholic beverage within other licensed establishments and common areas located in portions of the entertainment district designated by the promotional association. No person shall take any alcoholic beverage or alcoholic beverages outside the boundaries of the entertainment district or portions of the entertainment district as designated by the promotional association, in its sole discretion. At times when a person is allowed to consume alcoholic beverages dispensed from portable bars and in common areas of all or any portion of the entertainment district designated by the promotional association, the promotional association must and shall ensure that minors can be easily distinguished from persons of legal age buying alcoholic beverages.

5. Every licensee within the entertainment district must and shall serve alcoholic beverages in containers that display and contain the licensee's trade name or logo or some other mark that is unique to that license and licensee.

6. The holder of an entertainment district special license is solely responsible for alcohol violations occurring at its portable bar and in any common area.

(L. 2005 H.B. 58 § 311.087 merged with S.B. 262)

**311.0087.1(Repealed L. 2012 H.B. 1498 § A)**

**311.088. Special permit for sale of intoxicating liquor by the drink from 6 a.m. to 3 a.m. the following day--limit on number of permits**

**per year--fee (Kansas City).** Any person possessing the qualifications and meeting the requirements of this chapter who is licensed to sell intoxicating liquor by the drink at retail for consumption on the premises in a home rule city with more than four hundred thousand inhabitants and located in more than one county may be issued a special permit by the state and such city. Notwithstanding the provisions of section 311.089 to the contrary, the special permit issued under this section shall allow the licensed premises to sell intoxicating liquor from 6:00 a.m. until 3:00 a.m. on the morning of the following day within one twenty-four hour period. Any person granted a special permit under this section shall only be authorized to receive up to six such special permits from the city in a calendar year. For every special permit issued under the provisions of this section, the permittee shall pay to the director of the department of revenue the sum of fifty dollars.  
(L. 2011 H.B. 101)

**311.089. Sunday liquor sales by the drink, permitted when (St. Louis City, Kansas City).**

Any establishment possessing or qualifying for a license to sell intoxicating liquor by the drink at retail in any city not within a county, any home rule city with more than four hundred thousand inhabitants and located in more than one county and if such establishment is also located in a resort area, convention trade area, or enterprise zone area, the establishment may apply for a Sunday by-the-drink license between the hours of 9:00 a.m. and midnight on Sunday. The license fee for such Sunday by-the-drink license shall be six hundred dollars per year. The license fee shall be prorated for the period of the license based on the cost of the annual license for the establishment.

(L. 2003 S.B. 298 § 2. A.L. 2012 H.B. 1498)

**311.090. Sale of liquor by the drink, cities, requirements.**

1. Any person who possesses the qualifications required by this chapter, and who meets the requirements of and complies with the provisions of this chapter, and the ordinances, rules and regulations of the incorporated city in which such licensee proposes to operate his business, may apply for, and the supervisor of alcohol and tobacco control may issue, a license to sell intoxicating liquor, as defined in this chapter, by the drink at retail for consumption on the premises described in the application; provided, that no license shall be issued for the sale of intoxicating liquor, other than malt liquor as defined in section 311.490, and light wines containing not in excess of fourteen percent of alcohol by weight made exclusively from grapes, berries and other fruits and vegetables, by the drink at retail for consumption on the premises where sold to any person other than a charitable, fraternal, religious, service or veterans' organization which has obtained an exemption from the payment of federal income taxes as provided in Section 501(c)(3), 501(c)(4), 501(c)(5), 501(c)(7), 501(c)(8), 501(c)(10), 501(c)(19), or 501(d) of the United States Internal Revenue Code of 1954, as amended, in any incorporated city having a population of less than nineteen thousand five hundred inhabitants, until the sale of such intoxicating liquor, by the drink at retail for consumption on the premises where sold, shall have been authorized by a vote of the majority of the qualified voters of the city. Such authority shall be determined by an election to be held in those cities having a population of less than nineteen thousand five hundred inhabitants as determined by the last preceding federal decennial census, under the provisions and methods set out in this chapter. Once such licenses are issued in a city with a population of at least nineteen thousand five hundred inhabitants, any subsequent loss of population shall not require the qualified voters of such a city to approve the sale of such intoxicating liquor prior to the issuance or renewal of such licenses. No license shall be issued for the sale of intoxicating liquor, other than malt liquor as defined in section 311.490, and light wines containing not in excess of fourteen percent of alcohol by weight made exclusively from grapes, berries and other fruits and vegetables, by the drink at retail for consumption on the

premises where sold, outside the limits of such incorporated cities unless the licensee is a charitable, fraternal, religious, service or veterans' organization which has obtained an exemption from the payment of federal income taxes as provided in Section 501(c)(3), 501(c)(4), 501(c)(5), 501(c)(7), 501(c)(8), 501(c)(10), 501(c)(19), or 501(d) of the United States Internal Revenue Code of 1954, as amended.

2. If any charitable, fraternal, religious, service, or veterans' organization has a license to sell intoxicating liquor on its premises pursuant to this section and such premises includes two or more buildings in close proximity, such permit shall be valid for the sale of intoxicating liquor at any such building.

(RSMo 1939 § 4890, A.L. 1981 S.B. 126, A.L. 1983 H.B. 85, et al., A.L. 1984 S.B. 441, A.L. 1990 H.B. 1180, A.L. 1993 S.B. 76, A.L. 1994 S.B. 474, A.L. 1995 S.B. 43, A.L. 2009 H.B. 132, A.L. 2012 H.B. 1498, A.L. 2016 S.B. 919)

**311.091. Boat or vessel, liquor sale by drink, requirements, fee.**

1. Except as provided under subsection 2 of this section and notwithstanding any other provisions of this chapter to the contrary, any person who possesses the qualifications required by this chapter and who meets the requirements of and complies with the provisions of this chapter may apply for and the supervisor of alcohol and tobacco control may issue a license to sell intoxicating liquor, as defined in this chapter, by the drink at retail for consumption on the premises of any boat, or other vessel licensed by the United States Coast Guard to carry thirty or more passengers for hire on navigable waters in or adjacent to this state, which has a regular place of mooring in a location in this state or within two hundred yards of a location which would otherwise be licensable under this chapter. The license shall be valid even though the boat, or other vessel, leaves its regular place of mooring during the course of its operation.

2. For every license for sale of liquor by the drink at retail for consumption on the premises of any boat or other vessel issued under the provisions of this section, the licensee shall pay to the director of revenue the sum of three hundred dollars per year.

(L. 1981 S.B. 126 § 5, A.L. 2013 S.B. 121, A.L. 2016 S.B. 994)

\*Effective 10-14-16, see § 21.250. S.B. 994 was vetoed July 1, 2016. The veto was overridden on September 14, 2016.

**311.092. Liquor by the drink on vessels regularly moored in city of St. Louis.** Notwithstanding any other provisions of this chapter to the contrary, any person who possesses the qualifications required by this chapter, and who meets the requirements of and complies with the provisions of this chapter, may apply for and the supervisor of liquor control may issue a license to sell intoxicating liquor, as in this chapter defined, by the drink at retail for consumption on the premises of any boat, or other vessel which travels on water, which has a regular place of mooring within the limits of a city not within a county with a population of more than six hundred thousand inhabitants. The license shall be valid even though the boat, or other vessel, leaves the corporate limits of the city during the course of its operation.

(L. 1974 S.B. 394)

**311.0093.1(Repealed L. 2012 H.B. 1498 § A)**

**311.095. Resorts, seasonal resort restaurants, restaurants, sale of liquor by the drink, resort defined--temporary license, new businesses, when.**

1. Notwithstanding any other provisions of this chapter to the contrary, any person who possesses the qualifications required by this chapter, and who now or hereafter meets the requirements of and complies with the provisions of this chapter, may apply for, and the supervisor of liquor control may issue, a license to sell intoxicating liquor, as defined in this chapter, by the drink at retail for consumption

on the premises of any resort as described in the application. As used in this section the term "resort" means any establishment having at least thirty rooms for the overnight accommodation of transient guests, having a restaurant or similar facility on the premises at least sixty percent of the gross income of which is derived from the sale of prepared meals or food, or means a restaurant provided with special space and accommodations where, in consideration of payment, food, without lodging, is habitually furnished to travelers and customers, and which restaurant establishment's annual gross receipts immediately preceding its application for a license shall not have been less than seventy-five thousand dollars per year with at least fifty thousand dollars of such gross receipts from nonalcoholic sales, or means a seasonal resort restaurant with food sales as determined in subsection 2 of this section. Any facility which is owned and operated as a part of the resort may be used to sell intoxicating liquor by the drink for consumption on the premises of such facility and, for the purpose of meeting the annual gross receipts requirements of this subsection, if any facility which is a part of the resort meets such requirement, such requirement shall be deemed met for any other facility which is a part of the resort.

2. A seasonal resort restaurant is a restaurant which is not a new restaurant establishment and which is open for business eight or fewer consecutive months in any calendar year. Fifty percent of all gross sales of such restaurant shall be sales of prepared meals. Any new seasonal resort restaurant establishment having been in operation for less than twelve weeks may be issued a temporary license to sell intoxicating liquor by the drink at retail for consumption on the premises for a period not to exceed ninety days if the seasonal resort restaurant establishment can show a projection for annualized gross sales of which fifty percent shall be sales of prepared meals. The temporary license fee and the annual license fee shall be prorated to reflect the period of operation of the seasonal resort restaurant. The license shall be valid only during the period for which application was made and for which the fee was paid. Any seasonal resort restaurant upon resuming business for its season of operation shall not be considered a new establishment for purposes of issuing a temporary license. Nothing in this subsection shall prohibit a seasonal resort restaurant from becoming a resort restaurant upon application, payment of fees, and compliance with the requirements of this chapter.

3. The times for opening and closing the establishments as fixed in section 311.290, the authority for the collection of fees by counties as provided in section 311.220, and all other laws and regulations of the state relating to the sale of liquor by the drink for consumption on the premises where sold shall apply to resorts in the same manner as they apply to establishments licensed under section 311.090.

4. Any new resort or restaurant establishment having been in operation for less than ninety days may be issued a temporary license to sell intoxicating liquor by the drink at retail for consumption on the premises for a period not to exceed ninety days if the resort or restaurant establishment can show a projection of an annual gross receipts of not less than seventy-five thousand dollars per year with at least fifty thousand dollars of such gross receipts from nonalcoholic sales. The license fee shall be prorated for the period of the temporary license based on the cost of the annual license for the establishment.

(L. 1967 p. 423, A.L. 1974 S.B. 348, A.L. 1981 S.B. 126, A.L. 1987 S.B. 150, A.L. 1993 H.B. 63, A.L. 1994 S.B. 474, A.L. 1995 S.B. 43)

**311.096. Common eating and drinking area, defined—licenses for sale of liquor by the drink not for consumption on premises— fees— extended hours for convention trade areas.**

1. As used in this section, the term "common eating and drinking area" means an area or areas within a building or group of buildings designated for the eating of food and drinking of liquor sold at retail by establishments which do not provide areas within their premises for the

consumption of food and liquor; where the costs of maintaining such area or areas are shared by the payment of common area maintenance charges, as provided in the respective leases permitting the use of such areas, or otherwise; and where the annual gross income from the sale of prepared meals or food consumed in such common eating and drinking area is, or is projected to be, at least two hundred seventy-five thousand dollars.

2. Notwithstanding any other provisions of this chapter to the contrary, any person who possesses the qualifications required by this chapter, or who now or hereafter meets the requirements of and complies with the provisions of this chapter, may apply for, and the supervisor of liquor control may issue, a license to sell intoxicating liquor, as defined in this chapter, by the drink at retail not for consumption on the premises where sold but for consumption in a common eating and drinking area, as described in the application for such license. In addition to all other fees required by law, each establishment in a common eating and drinking area licensed under this subsection shall pay to the director of revenue the sum of three hundred dollars per year. The times for selling intoxicating liquor as fixed in section 311.290, the authority for the collection of fees by counties and cities as provided in section 311.220, and all other laws and regulations of this state relating to the sale of intoxicating liquor by the drink shall apply to each establishment licensed under this subsection in the same manner as they apply to establishments licensed under sections 311.085 and 311.090.

3. Notwithstanding any other provisions of this chapter to the contrary, any person who possesses the qualifications required by this chapter, and who now or hereafter meets the requirements of and complies with the provisions of this chapter, may apply for, and the supervisor of liquor control may issue, a license to sell intoxicating liquor, as defined in this chapter, between the hours of 11:00 a.m. on Sunday and 12:00 midnight on Sunday by the drink at retail not for consumption on the premises where sold but for consumption in a common eating and drinking area, as described in the application for such license. In addition to all other fees required by law, each establishment in a common eating and drinking area licensed under this subsection shall pay an additional fee of two hundred dollars a year payable at the same time and in the same manner as its other license fees.

4. Any person possessing the qualifications and meeting the requirements of this chapter, who is licensed to sell intoxicating liquor by the drink at retail not for consumption on the premises where sold but for consumption in a common eating and drinking area, may apply to the supervisor of liquor control for a special permit to remain open on all days of the week except Sunday between the hours of 1:30 a.m. to 3:00 a.m. The provisions of subsection 3 of this section shall apply to the sale of intoxicating liquor by the drink at retail not for consumption on the premises where sold but for consumption in a common eating and drinking area on Sunday. To qualify for such a permit, the premises of such an applicant must be located in an area which has been designated as a convention trade area by the governing body of the county or city. An applicant granted a special permit under this section shall pay, in addition to all other fees required by this chapter, an additional fee of three hundred dollars a year payable at the time and in the same manner as its other license fees.

(L. 1986 S.B. 444, A.L. 1994 S.B. 474)

**311.0097.1(Repealed L. 2012 H.B. 1498 § A)**

**311.0098.1(Repealed L. 2012 H.B. 1498 § A)**

**311.099. Controlled access liquor cabinet system for qualified establishments—definitions—license—employees, requirements—temporary license, when—sales to establishment, requirements.**

1. As used in this section, the following terms mean:



(1) **"Controlled access liquor cabinet"**, a closed container, either refrigerated in whole or in part or nonrefrigerated, access to the interior of which is restricted by means of a locking device which requires the use of a key, access by means of a locking device as hereinabove described;

(2) **"Controlled access liquor cabinet system"**, a system for the sale of intoxicating liquor in qualified packages or containers in the rooms provided for the overnight accommodation of transient guests in a qualified establishment by means of a controlled access liquor cabinet, and such system shall permit the licensee to maintain in the rooms provided for the overnight accommodation of transient guests a controlled access liquor cabinet in which such licensee may maintain for sale intoxicating liquor in qualified packages or containers, together with, if desired, other beverages or food, and such system shall permit the adult registered guests of the room in which such controlled access liquor cabinet is located to use the key, magnetic card or other similar device to gain access to such controlled access liquor cabinet to obtain the intoxicating liquor or other beverages or food for consumption;

(3) **"Qualified establishment"**, any establishment having at least forty rooms for the overnight accommodation of transient guests and having a restaurant or similar facility on the premises at least sixty percent of the gross income of which is derived from the sale of prepared meals or food, which restaurant's annual gross food sales for the past two years immediately preceding its application for a license shall not have been less than one hundred thousand dollars per year or, if such restaurant has been in operation for less than two years, such restaurant has been in operation for at least ninety days preceding the application for license for sale of intoxicating liquor by means of controlled access liquor cabinets and has a projected experience based upon its sale of food during the preceding ninety days which would exceed one hundred thousand dollars per year;

(4) **"Qualified packages or containers"**, packages or containers for intoxicating liquor, other than beer or other malt liquor, which hold not less than fifty milliliters and not more than two hundred milliliters, and any packages or containers for beer or other malt liquor;

(5) **"Registered guest"**, each person who signs his name to the guest register of the qualified establishment or takes some other equivalent action for the purpose of registering as a guest of such qualified establishment;

(6) **"Room"**, a room in a qualified establishment which is intended to be used as, and which is provided for, the overnight accommodation of transient guests.

2. Notwithstanding any other provision of this chapter to the contrary, any person who possesses the qualifications required by this chapter, and who now or hereafter meets the requirements of and complies with the provisions of this chapter, and who operates a qualified establishment and who is licensed to sell liquor by the drink at retail with respect to such qualified establishment, may apply for, and the supervisor of liquor control shall issue, a license to sell intoxicating liquor in the rooms of such qualified establishment by means of a controlled access liquor cabinet system on and subject to the following terms and conditions:

(1) The key, magnetic card or other similar device required to attain access to the controlled access liquor cabinet in a particular room may be provided only to each adult registered guest who is registered to stay in such room;

(2) Prior to providing a key, magnetic card or other similar device required to attain access to the controlled access liquor cabinet in a particular room to the registered guest, the licensee shall verify that

each such registered guest to whom such key, magnetic card or similar device is to be provided is not a minor, as defined by section 311.310;

(3) All employees handling the intoxicating liquor to be placed in the controlled access liquor cabinet, including without limitation any employee who inventories and/or restocks and replenishes the intoxicating liquor in the controlled access liquor cabinet, shall be at least eighteen years of age and shall obtain such employee permits as the city, county or other local governmental entity in which the qualified establishment is located requires to be obtained by employees of the restaurant operated at such qualified establishment; provided, however, that no such employee permits shall be required of any employee who handles the intoxicating liquor in the original case and who does not open such original case;

(4) Registered guests may use the key, magnetic card or other similar device required to attain access to the controlled access liquor cabinet in such registered guest's room at any time; provided, however, that no controlled access liquor cabinet may be restocked or replenished with intoxicating liquor, nor shall any intoxicating liquor be delivered to a room in order to restock or replenish the supply of intoxicating liquor in the controlled access liquor cabinet, at any time when the restaurant operated at the qualified establishment is not permitted to sell liquor by the drink at retail pursuant to the provisions of this chapter;

(5) Upon request from the registered guest at any time, the qualified establishment shall cause all intoxicating liquor to be removed from the controlled access liquor cabinet in the room of such registered guest as soon as reasonably practicable; and

(6) The qualified establishment shall have the right to collect payment for the intoxicating liquor or other beverages or food taken from the controlled access liquor cabinet in the room of a registered guest in such manner as it shall determine to be appropriate, including without limitation the inclusion of such charges together with the charges made to such registered guest for the use of the room or for purchase of meals at the restaurant operated at such qualified establishment.

3. Any new qualified establishment having been in operation for less than ninety days may be issued a temporary license to sell intoxicating liquor in the rooms of such qualified establishment by means of a controlled access liquor cabinet system for a period not to exceed ninety days if such establishment can show a projection of an annual business from prepared meals or food which would exceed not less than one hundred thousand dollars per year.

4. In addition to any right to sell granted pursuant to any other provision of this chapter, a duly licensed wholesaler shall be permitted to sell intoxicating liquor to a qualified establishment in any size of qualified packages or containers for use in a controlled access liquor cabinet system; provided, however, that as to any size of qualified packages or containers which could not be legally sold to the qualified establishment except for the provisions of this section, any such size of qualified packages or containers shall be sold by the qualified establishment only by means of the controlled access liquor cabinet system.

(L. 1984 S.B. 441, A.L. 1993 H.B. 63)  
Effective 6-7-93

**311.100. Sale by drink defined.** The sale of any intoxicating liquor except malt liquor, in the original package, in any quantity less than fifty milliliters shall be deemed "sale by the drink", and may be made only by a holder of a retail liquor dealer's license and when so made, the container in every case shall be emptied and the contents thereof served as other intoxicating liquors sold by the drink are served.

(RSMo 1939 § 4915, A.L. 1980 S.B. 511, A.L. 1984 S.B. 441)

**311.101. Unfinished bottles of wine may be carried out of a restaurant bar, when—transportation permitted—wineries, unfinished bottles of wine may be removed, when—transportation permitted—definition of winery.**

1. Notwithstanding any other provision of law, it shall not be unlawful for the owner, operator, or employees of a restaurant bar, as defined in section 311.097, to allow patrons to carry out one or more bottles of unfinished wine, nor shall it be unlawful for patrons of such restaurant bar to carry out one or more bottles of unfinished wine under the following conditions:

- (1) The patron must have ordered a meal;
- (2) The bottle or bottles of wine must have been at least partially consumed during the meal;
- (3) The restaurant bar must provide a dated receipt for the unfinished bottle or bottles of wine; and
- (4) The restaurant bar must securely reseal the bottle or bottles of wine and place them in one or more one-time-use, tamperproof, transparent bags and securely seal the bags.

2. Notwithstanding any other provision of law, no person who transports one or more bottles of unfinished wine which came from a restaurant bar under the circumstances described in subsection 1 of this section, in a vehicle, shall be considered to have violated any state law or local ordinance regarding open containers in vehicles so long as such person has in his or her possession the dated receipt from the restaurant bar and the bottle or bottles of wine remain in the restaurant bar-furnished, one-time-use, tamperproof, transparent bags with the seals intact.

3. Notwithstanding any other provision of law, it shall be unlawful for the owner, operator, or employees of a winery to allow patrons to carry out one or more bottles of unfinished wine and it shall be lawful for patrons of such winery to carry out one or more bottles of unfinished wine under the following conditions:

- (1) The bottle or bottles of wine must have been at least partially consumed at the winery;
- (2) The winery must provide a dated receipt for the unfinished bottle or bottles of wine; and
- (3) The winery must securely reseal the bottle or bottles of wine and place them in one or more one-time-use, tamperproof, transparent bags and securely seal the bags.

4. Notwithstanding any other provision of law, no person who transports one or more bottles of unfinished wine which came from a winery under the circumstances described under subsection 3 of this section shall be considered to have violated any state law or local ordinance regarding open containers in vehicles so long as such person has in his or her possession the dated receipt from the winery and the bottle or bottles of wine remain in the winery-furnished, one-time-use, tamper-proof, transparent bags with the seals intact.

5. As used in this section "winery" means any establishment at which wine is made.

(L. 2005 S.B. 262)

\*Section 311.097 was repealed by H.B. 1498, 2012

**311.0102.1(Repealed L. 2012 H.B. 1498 § A)**

**311.0104.1(Repealed L. 2012 H.B. 1498 § A)**

**311.110. Election to determine whether liquor may be sold by drink—procedure.** Upon application by petition signed by one-fifth of the voters of any incorporated city, who are qualified to vote for members of the legislature in such incorporated city of this state, the board of aldermen, city council or other proper officials of such incorporated city shall submit the question to the voters of the incorporated city, to determine whether or not intoxicating liquor, as defined in this chapter, other than malt liquor containing not to exceed five percent of alcohol by weight, shall be sold, furnished or given away within the corporate limits of such incorporated city; and the result thereof shall be entered upon the records of such board of aldermen, city council or other proper officials, provided further, that the board of aldermen, city council or other proper officials shall determine the sufficiency of the petition presented by the poll books of the last previous city election.

(RSMo 1939 § 4935, A.L. 1978 H.B. 971)

**311.130. Form of ballot.** The question shall be submitted in substantially the following form: Shall intoxicating liquor, containing alcohol in excess of five percent (5%) by weight, be sold by the drink at retail for consumption on the premises where sold?

(RSMo 1939 § 4937, A.L. 1965 p. 502, A.L. 1978 H.B. 971)

**311.140. Result of election—favorable vote.** If a majority of the votes cast on the question be for the sale of intoxicating liquor, containing alcohol in excess of five percent by weight, by the drink at retail for consumption on the premises where sold, such intoxicating liquors may be sold under the provisions of existing laws regulating the sale thereof and the procuring of a license for that purpose; and if a majority of the votes cast on the question be against the sale of intoxicating liquor, containing alcohol in excess of five percent by weight, by the drink at retail for consumption on the premises where sold, the board of aldermen, city council or other proper authorities of such incorporated city submitting the question shall publish the result once a week for four consecutive weeks in the same newspaper in which the notice of submission of the question was published, and the provisions of this chapter shall take effect and be in force from and after the date of the last insertion of the publication last above referred to; and provided further, that no license to sell intoxicating liquor, by the drink at retail for consumption on the premises where sold, other than malt liquor containing not to exceed five percent of alcohol by weight, shall be granted during the time of publication last above mentioned; provided further, that this law shall not be construed to interfere with any license issued before the date of the filing of the petition for the submission of the question, but such license may run until the date of its expiration and shall not be renewed. The election in this chapter provided for, and the result thereof, may be contested in the same manner as is now provided for by law for the contest of elections of county officers in this state, by any voter of such incorporated city in which said election shall be held, by an action to contest, and which shall be brought against the city holding such election.

(RSMo 1939 § 4938, A.L. 1978 H.B. 971)

**311.150. Result of election—unfavorable vote.** If a majority of the votes cast on the question held under the provisions of this chapter shall be against the sale of intoxicating liquor containing alcohol in excess of five percent by weight, by the drink at retail for consumption on the premises where sold, it shall not be lawful for any person within the limits of such incorporated city to, directly or indirectly, sell, give away or barter in any manner whatever intoxicating liquor, by the drink at retail for consumption on the premises where sold, except malt liquor, containing alcohol not to exceed five percent by weight, under proper license, in any quantity whatever, under the penalties prescribed in this chapter.

(RSMo 1939 § 4939, A.L. 1978 H.B. 971)

**311.160. Question may be resubmitted, when—manner.** Whenever the question submitted in this chapter provided for has been decided for

or against the sale of intoxicating liquor containing alcohol in excess of five percent by weight, by the drink at retail for consumption on the premises where sold, then the question shall not be again submitted within four years next thereafter in the same incorporated city, and then only on a petition and in every respect conforming to the provisions of this law.

(RSMo 1939 § 4940, A.L. 1978 H.B. 971)

**311.170. Local option provisions applicable only to sales for consumption on premises.** The provisions made by this chapter for local option shall be held to be applicable only to sales for consumption on the premises where sold, and shall not be construed to prevent the sale of intoxicating liquor in the original package and not to be opened or consumed on the premises where sold, nor to prevent the sale, at retail by the drink for consumption on the premises where sold, of malt liquor containing not to exceed five percent of alcohol by weight, under licenses issued in accordance with the provisions of this chapter.

(RSMo 1939 § 4941)

**311.174. Convention trade area, Kansas City, North Kansas City, Jackson County, liquor sale by drink, extended hours for business, requirements, fee.**

1. Any person possessing the qualifications and meeting the requirements of this chapter who is licensed to sell intoxicating liquor by the drink at retail for consumption on the premises in a city with a population of at least four thousand inhabitants which borders the Missouri River and also borders a city with a population of over three hundred thousand inhabitants located in at least three counties, in a city with a population of over three hundred thousand which is located in whole or in part within a first class county having a charter form of government or in a first class county having a charter form of government which contains all or part of a city with a population of over three hundred thousand inhabitants, may apply to the supervisor of alcohol and tobacco control for a special permit to remain open on each day of the week until 3:00 a.m. of the morning of the following day; except that, an entity exempt from federal income taxes under Section 501(c)(7) of the Internal Revenue Code of 1986, as amended, and located in a building designated as a National Historic Landmark by the United States Department of the Interior may apply for a license to remain open until 6:00 a.m. of the following day. The time of opening on Sunday may be 9:00 a.m. The provisions of this section and not those of section 311.097 regarding the time of closing shall apply to the sale of intoxicating liquor by the drink at retail for consumption on the premises on Sunday. When the premises of such an applicant is located in a city as defined in this section, then the premises must be located in an area which has been designated as a convention trade area by the governing body of the city. When the premises of such an applicant is located in a county as defined in this section, then the premises must be located in an area which has been designated as a convention trade area by the governing body of the county.

2. An applicant granted a special permit under this section shall in addition to all other fees required by this chapter pay an additional fee of three hundred dollars a year payable at the time and in the same manner as its other license fees.

3. The provisions of this section allowing for extended hours of business shall not apply in any incorporated area wholly located in any first class county having a charter form of government which contains all or part of a city with a population of over three hundred thousand inhabitants until the governing body of such incorporated area shall have by ordinance or order adopted the extended hours authorized by this section.

(L. 1981 S.B. 126 § 4, A.L. 1986 S.B. 500, A.L. 1995 S.B. 43, A.L. 2007 S.B. 299 & S.B. 616, A.L. 2012 H.B. 1498)

**311.176. Convention trade area, St. Louis City, liquor sale by drink, extended hours for business, requirements, fee—resort**

**defined.**

1. Any person possessing the qualifications and meeting the requirements of this chapter who is licensed to sell intoxicating liquor by the drink at retail for consumption on the premises in a city not located within a county, may apply to the supervisor of alcohol and tobacco control for a special permit to remain open on each day of the week until 3:00 a.m. of the morning of the following day. The time of opening on Sunday may be 9:00 a.m. The provisions of this section and not those of section 311.097 regarding the time of closing shall apply to the sale of intoxicating liquor by the drink at retail for consumption on the premises on Sunday. To qualify for such a permit, the premises of such an applicant must be located in an area which has been designated as a convention trade area by the governing body of the city and the applicant must meet at least one of the following conditions:

(1) The business establishment's annual gross sales for the year immediately preceding the application for extended hours equals one hundred fifty thousand dollars or more; or

(2) The business is a resort. For purposes of this section, a "resort" is defined as any establishment having at least sixty rooms for the overnight accommodation of transient guests and having a restaurant located on the premises.

2. An applicant granted a special permit pursuant to this section shall, in addition to all other fees required by this chapter, pay an additional fee of three hundred dollars a year payable at the time and in the same manner as its other license fees.

(L. 1981 S.B. 126 § 3, A.L. 1986 S.B. 500, A.L. 1996 S.B. 933, A.L. 2012 H.B. 1498)

\*Section 311.097 was repealed by H.B. 1498, 2012.

**311.178. Convention trade area, St. Louis County, liquor sale by drink, extended hours for business, requirements, fee—resort defined—special permit for liquor sale by drink (Miller, Morgan, and Camden counties).**

1. Any person possessing the qualifications and meeting the requirements of this chapter who is licensed to sell intoxicating liquor by the drink at retail for consumption on the premises in a county of the first classification having a charter form of government and not containing all or part of a city with a population of over three hundred thousand may apply to the supervisor of alcohol and tobacco control for a special permit to remain open on each day of the week until 3:00 a.m. of the morning of the following day. The time of opening on Sunday may be 9:00 a.m. The provisions of this section and not those of section 311.097 regarding the time of closing shall apply to the sale of intoxicating liquor by the drink at retail for consumption on the premises on Sunday. The premises of such an applicant shall be located in an area which has been designated as a convention trade area by the governing body of the county and the applicant shall meet at least one of the following conditions:

(1) The business establishment's annual gross sales for the year immediately preceding the application for extended hours equals one hundred fifty thousand dollars or more; or

(2) The business is a resort. For purposes of this subsection, a "resort" is defined as any establishment having at least sixty rooms for the overnight accommodation of transient guests and having a restaurant located on the premises.

2. Any person possessing the qualifications and meeting the requirements of this chapter who is licensed to sell intoxicating liquor by the drink at retail for consumption on the premises in a county of the third classification without a township form of government having a population of more than twenty-three thousand five hundred but less

than twenty-three thousand six hundred inhabitants, a county of the third classification without a township form of government having a population of more than nineteen thousand three hundred but less than nineteen thousand four hundred inhabitants or a county of the first classification without a charter form of government with a population of at least thirty-seven thousand inhabitants but not more than thirty-seven thousand one hundred inhabitants may apply to the supervisor of alcohol and tobacco control for a special permit to remain open on each day of the week until 3:00 a.m. of the morning of the following day. The time of opening on Sunday may be 9:00 a.m. The provisions of this section and not those of section 311.097 regarding the time of closing shall apply to the sale of intoxicating liquor by the drink at retail for consumption on the premises on Sunday. The applicant shall meet all of the following conditions:

(1) The business establishment's annual gross sales for the year immediately preceding the application for extended hours equals one hundred thousand dollars or more;

(2) The business is a resort. For purposes of this subsection, a "resort" is defined as any establishment having at least seventy-five rooms for the overnight accommodation of transient guests, having at least three thousand square feet of meeting space and having a restaurant located on the premises; and

(3) The applicant shall develop, and if granted a special permit shall implement, a plan ensuring that between the hours of 1:30 a.m. and 3:00 a.m. no sale of intoxicating liquor shall be made except to guests with overnight accommodations at the licensee's resort. The plan shall be subject to approval by the supervisor of alcohol and tobacco control and shall provide a practical method for the division of alcohol and tobacco control and other law enforcement agencies to enforce the provisions of subsection 3 of this section.

3. While open between the hours of 1:30 a.m. and 3:00 a.m. under a special permit issued pursuant to subsection 2 of this section, it shall be unlawful for a licensee or any employee of a licensee to sell intoxicating liquor to or permit the consumption of intoxicating liquor by any person except a guest with overnight accommodations at the licensee's resort.

4. An applicant granted a special permit pursuant to this section shall, in addition to all other fees required by this chapter, pay an additional fee of three hundred dollars a year payable at the time and in the same manner as its other license fees.

5. The provisions of this section allowing for extended hours of business shall not apply in any incorporated area wholly located in any county of the first classification having a charter form of government which does not contain all or part of a city with a population of over three hundred thousand inhabitants until the governing body of such incorporated area shall have by ordinance or order adopted the extended hours authorized by this section.

(L. 1981 S.B. 126 § 2, A.L. 1986 S.B. 500, A.L. 2002 S.B. 834, A.L. 2007 S.B. 299 & S.B. 616 merged with S.B. 613 Revision, A.L. 2012 H.B. 1498)

\*Section 311.097 was repealed by H.B. 1498, 2012.

### **311.179. St. Louis Lambert International Airport and Kansas City International Airport, special permit, fee.**

1. Any person possessing the qualifications and meeting the requirements of this chapter who is licensed to sell intoxicating liquor by the drink at retail in an international airport located in a county with a charter form of government and with more than nine hundred fifty thousand inhabitants or in a county of the first classification with more than eighty-three thousand but fewer than ninety-two thousand inhabitants and with a city of the fourth classification with more than four thousand five hundred but fewer than five thousand inhabitants as the county seat may apply to the supervisor of alcohol and tobacco

control for a special permit which:

(1) Allows the premises located in the international airport in such county to open at 4 a.m. and sell intoxicating liquor by the drink at retail for consumption. The provisions of this section and not those of section 311.097\* regarding the time of opening shall apply to the sale of intoxicating liquor by the drink at retail for consumption on Sunday;

(2) Allows persons to leave licensed establishments with an alcoholic beverage and enter other airport designated areas located within such airport. No person shall take any alcoholic beverage or beverages outside such designated areas, including onto any airplane; and

(3) Requires every licensee within such international airport to serve alcoholic beverages in containers that display and contain the licensee's trade name or logo or some other mark that is unique to that license and licensee.

2. An applicant granted a special permit pursuant to this section shall, in addition to all other fees required by this chapter, pay an additional fee of three hundred dollars a year payable at the time and in the same manner as its other license fees.

(L. 2012 H.B. 1498, A.L. 2017 H.B. 115)

\*Section 311.097 was repealed by H.B. 1498, 2012.

### **311.180. Manufacturers, wholesalers, solicitors—license fees—wholesalers, sale to gaming commission licensees, allowed.**

1. No person, partnership, association of persons or corporation shall manufacture, distill, blend, sell or offer for sale intoxicating liquor within this state at wholesale or retail, or solicit orders for the sale of intoxicating liquor within this state without procuring a license from the supervisor of alcohol and tobacco control authorizing them so to do. For such license there shall be paid to and collected by the director of revenue annual charges as follows:

(1) For the privilege of manufacturing and brewing in this state malt liquor containing not in excess of five percent of alcohol by weight and the privilege of selling to duly licensed wholesalers and soliciting orders for the sale of malt liquors containing not in excess of five percent of alcohol by weight, to, by or through a duly licensed wholesaler within this state, the sum of two hundred fifty dollars;

(2) For the privilege of manufacturing in this state intoxicating liquor containing not in excess of twenty-two percent of alcohol by weight and the privilege of selling to duly licensed wholesalers and soliciting orders for the sale of intoxicating liquor containing not in excess of twenty-two percent of alcohol by weight, to, by or through a duly licensed wholesaler within this state, the sum of two hundred dollars;

(3) For the privilege of manufacturing, distilling or blending intoxicating liquor of all kinds within this state and the privilege of selling to duly licensed wholesalers and soliciting orders for the sale of intoxicating liquor of all kinds, to, by or through a duly licensed wholesaler within this state, the sum of four hundred and fifty dollars;

(4) For the privilege of selling to duly licensed wholesalers and soliciting orders for the sale of malt liquor containing not in excess of five percent of alcohol by weight, to, by or through a duly licensed wholesaler within this state, the sum of fifty dollars;

(5) For the privilege of selling to duly licensed wholesalers and soliciting orders for the sale of intoxicating liquor containing not in excess of twenty-two percent of alcohol by weight, to, by or through a duly licensed wholesaler within this state, the sum of one hundred dollars;

(6) For the privilege of selling to duly licensed wholesalers and soliciting orders for the sale of intoxicating liquor of all kinds, to, by or through a duly licensed wholesaler within this state, the sum of two hundred and fifty dollars;

(7) For the privilege of selling intoxicating liquor containing not in excess of five percent of alcohol by weight by a wholesaler to a person duly licensed to sell such malt liquor at retail and the privilege of selling to duly licensed wholesalers and soliciting orders for the sale of malt liquor containing not in excess of five percent of alcohol by weight, to, by or through a duly licensed wholesaler within this state, the sum of one hundred dollars;

(8) For the privilege of selling intoxicating liquor containing not in excess of twenty-two percent of alcohol by weight by a wholesaler to a person duly licensed to sell such intoxicating liquor at retail and the privilege of selling to duly licensed wholesalers and soliciting orders for the sale of intoxicating liquor containing not in excess of twenty-two percent of alcohol by weight, to, by or through a duly licensed wholesaler within this state, the sum of two hundred dollars;

(9) For the privilege of selling intoxicating liquor of all kinds by a wholesaler to a person duly licensed to sell such intoxicating liquor at retail and the privilege of selling to duly licensed wholesalers and soliciting orders for the sale of intoxicating liquor of all kinds, to, by or through a duly licensed wholesaler within this state, the sum of five hundred dollars, except that a license authorizing the holder to sell to duly licensed wholesalers and to solicit orders for sale of intoxicating liquor, to, by or through a duly licensed wholesaler, shall not entitle the holder thereof to sell within the state of Missouri, direct to retailers.

(10) For the privilege of selling to duly licensed wholesalers and soliciting orders for the sale of vintage wine as defined in section 311.191, to, by, or through a duly licensed wholesaler within this state, the sum of five hundred dollars.

2. Solicitors, manufacturers and blenders of intoxicating liquor shall not be required to take out a merchant's license for the sale of their products at the place of manufacture or in quantities of not less than one gallon.

3. The provisions of this section relating to the privilege of selling malt liquor are subject to and limited by the provisions of sections 311.181 and 311.182.

4. The licenses prescribed in this section for the privilege of selling intoxicating liquor by a wholesaler to a person duly licensed to sell such intoxicating liquor at retail shall allow such wholesaler to sell intoxicating liquor to licensees licensed by the gaming commission to sell beer or alcoholic beverages pursuant to section 313.840, RSMo.

(RSMo 1939 § 4898, A.L. 1945 p. 1043, A.L. 1985 H.B. 369, A.L. 1994 S.B. 651, A.L. 1995 S.B. 43, A.L. 2007 S.B. 299 & S.B. 616)

### **311.181. Wholesaler's license to sell malt liquor, geographical area limitation—exception—requirements.**

1. In addition to any other information or documents required by law, an applicant for a license which grants alone or with other privileges the privilege of selling intoxicating liquor containing not in excess of five percent of alcohol by weight by a wholesaler to a person duly licensed to sell such malt liquor at retail shall submit to the supervisor of liquor control a statement under oath designating clearly the geographical area within which the applicant has been authorized by the brewer to sell such malt liquor, the brand or brands he proposes to sell, and the brewer or brewers who manufacture the brands, and affirming that the applicant will maintain a warehouse and delivery facilities within the designated geographical area. Each such wholesaler applicant shall enter into a written agreement with the brewer of the brand or brands which the applicant proposes to sell, which agreement must specifically

designate a geographic area within which such wholesaler applicant is authorized to sell such brand or brands. A copy of such written agreement shall be filed with the supervisor of liquor control as a part of such application. It shall be unlawful for any such wholesaler applicant, who is granted a license hereunder, to sell any brand or brands of malt liquor in the state of Missouri except in the designated geographic area described in said agreement. Provided, however, that when such an applicant is prevented from servicing the designated geographic area due to fire, flood, or other causes beyond his reasonable control, another licensed wholesaler not within the designated geographic area may sell the specified brands of malt liquor in that designated geographic area, if the applicant wholesaler who is prevented from servicing the area consents thereto and approval is obtained from the applicable brewer and the supervisor of liquor control.

2. A specified geographic area designation in any agreement required by this section shall be changed only upon a written agreement between the wholesaler and the brewer, and shall be filed pursuant to this section and the supervisor shall require the brewer and wholesaler to verify that the level of service within the designated geographic area will not be affected by such change.

3. No provision of any written agreement required by this section shall expressly or by implication or in its operation establish or maintain the resale price of any brand or brands of beer by the licensed wholesaler.

4. The provisions of section 311.720 shall not apply to this section.

(L. 1985 H.B. 369, A.L. 2009 H.B. 132)

### **311.182. Exclusive areas for wholesalers—violation of area limitations by wholesalers or brewers, penalties.**

1. No brewer or manufacturer of malt liquor, who designates a specific geographic area for which a wholesaler shall be responsible, shall enter into any agreement with any other person for the purpose of establishing an additional wholesaler for the same brands of malt liquor in such designated area. Provided, however, that section 311.181 and this section shall not prevent a brewer, manufacturer or wholesaler of malt liquor from exercising or enforcing any rights or obligations established by or contained within any written agreement required by section 311.181.

2. Any wholesaler or brewer who shall violate the provisions of section 311.181 or this section, or permit his employees, officers or agents to do so, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished only as follows:

(1) For the first offense, by a fine of one thousand dollars;

(2) For a second offense, by a fine of five thousand dollars; and

(3) For a third offense, by a fine of twenty-five thousand dollars.

3. The provisions of section 311.720 shall not apply to this section.

(L. 1985 H.B. 369, A.L. 2009 H.B. 132)

### **311.185. Shipments of alcohol to residents permitted, when.**

1. Notwithstanding any rule, law, or regulation to the contrary, any person currently licensed in this state or any other state as a wine manufacturer may apply for and the supervisor of alcohol and tobacco control may issue a wine direct shipper license, as provided in this section, which allows a wine manufacturer to ship up to two cases of wine per month directly to a resident of this state who is at least twenty-one years of age for such resident's personal use and not for resale. Before sending any shipment to a resident of this state, the wine manufacturer shall first obtain a wine direct shipper license as follows:

(1) File an application with the division of alcohol and tobacco control; and

(2) Provide to the division of alcohol and tobacco control a true copy of its current alcoholic beverage license issued in this state or any other state, as well as a copy of the winery license from the Alcohol and Tobacco Tax and Trade Bureau.

2. All wine direct shipper licensees shall:

(1) Not ship more than two cases of wine per month to any person for his or her personal use and not for resale;

(2) Not use any carrier for shipping of wine that is not licensed under this section;

(3) Only ship wine that is properly registered with the Alcohol and Tobacco Tax and Trade Bureau;

(4) Only ship wine manufactured on the winery premises;

(5) Ensure that all containers of wine delivered directly to a resident of this state are conspicuously labeled with the words "CONTAINS ALCOHOL: SIGNATURE OF PERSON AGE 21 OR OLDER REQUIRED FOR DELIVERY" or are conspicuously labeled with wording preapproved by the division of alcohol and tobacco control;

(6) If the winery is located outside of this state, by January thirty-first, make a report under oath to the supervisor of alcohol and tobacco control setting out the total amount of wine shipped into the state the preceding year;

(7) If the winery is located outside of this state, pay the division of alcohol and tobacco control all excise taxes due on the amount to be calculated as if the sale were in this state at the location where the delivery is made;

(8) If the winery is located within this state, provide the division of alcohol and tobacco control any additional information deemed necessary beyond that already required for retail sales from the winery tasting room to ensure compliance with this section;

(9) Permit the division of alcohol and tobacco control to perform an audit of the wine direct shipper licensees' records upon request; and

(10) Be deemed to have consented to the jurisdiction of the division of alcohol and tobacco control or any other state agency and the Missouri courts concerning enforcement of this section and any related laws, rules, or regulations.

3. The wine direct shipper licensee may annually renew its license with the division of alcohol and tobacco control by providing the division of alcohol and tobacco control all required items provided in subsection 1 of this section.

4. Notwithstanding any law, rule, or regulation to the contrary, any carrier may apply for and the supervisor of alcohol and tobacco control may issue an alcohol carrier license, as provided in this section, which allows the carrier to transport and deliver shipments of wine directly to a resident of this state who is at least twenty-one years of age or older. Before transporting any shipment of wine to a resident of this state, the carrier shall first obtain an alcohol carrier license by filing an application with the division of alcohol and tobacco control.

5. All alcohol carrier licensees shall:

(1) Not deliver to any person under twenty-one years of age, or to any intoxicated person, or any person appearing to be in a state of intoxication;

(2) Require valid proof of identity and age;

(3) Obtain the signature of an adult as a condition of delivery; and

(4) Keep records of wine shipped which include the license number and name of the winery or retailer, quantity of wine shipped, recipients; name and address, and an electronic or paper form of signature from the recipient of the wine.

6. The division of alcohol and tobacco control may promulgate rules to effectuate the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

(L. 2007 S.B. 299 & S.B. 616)

**311.190. Wine or brandy manufacturer's license, fee—use of materials produced outside state, limitation, exception—what sales may be made, when.**

1. For the privilege of manufacturing wine or brandy, which manufacturing shall be in accordance with all provisions of federal law applicable thereto except as may otherwise be specified in this section, in quantities not to exceed five hundred thousand gallons, not in excess of eighteen percent of alcohol by weight for wine, or not in excess of thirty-four percent of alcohol by weight for brandy, from grapes, berries, other fruits, fruit products, honey, and vegetables produced or grown in the state of Missouri, exclusive of sugar, water and spirits, there shall be paid to and collected by the director of revenue, in lieu of the charges provided in section 311.180, a license fee of five dollars for each five hundred gallons or fraction thereof of wine or brandy produced up to a maximum license fee of three hundred dollars.

2. Notwithstanding the provisions of subsection 1 of this section, a manufacturer licensed under this section may use in any calendar year such wine- and brandy-making material produced or grown outside the state of Missouri in a quantity not exceeding fifteen percent of the manufacturer's wine entered into fermentation in the prior calendar year.

3. In any year when a natural disaster causes substantial loss to the Missouri crop of grapes, berries, other fruits, fruit products, honey or vegetables from which wines are made, the director of the department of agriculture shall determine the percent of loss and allow a certain additional percent, based on the prior calendar year's production of such products, to be purchased outside the state of Missouri to be used and offered for sale by Missouri wineries.

4. A manufacturer licensed under this section may purchase and sell bulk or packaged wines or brandies received from other manufacturers licensed under this section and may also purchase in bulk, bottle and sell to duly licensed wineries, wholesalers and retail dealers on any day except Sunday, and a manufacturer licensed under this section may offer samples of wine, may sell wine and brandy in its original package directly to consumers at the winery, and may open wine so purchased by customers so that it may be consumed on the winery premises on Monday through Saturday between 6:00 a.m. and midnight and on Sunday between 9:00 a.m. and 10:00 p.m.

(L. 1943 p. 620 § 4898a, A.L. 1945 p. 1056, A.L. 1969 H.B. 237, A.L. 1979 H.B. 701, A.L. 1982 H.B. 1323, A.L. 1993 H.B. 63, A.L. 1994 S.B. 474, A.L. 1999 S.B. 391, A.L. 2007 S.B. 299 & S.B. 616)

**311.191. Vintage wine, definition—sale of vintage wine through auction, authorized sellers—licenses to auction—auction conducted, where, no consumption, issuance period, fee—shipment out of state—tastings—auctioneer subject to regulations—penalty.**

1. As used herein, the term "**vintage wine**" means bottled domestic white, rose or sparkling wine which is not less than five years old, domestic red wine which is not less than ten years old, or imported white, rose, red, sparkling or port wine which is not less than three years old.

2. Notwithstanding any other provisions of this chapter, any municipality or person legally owning, controlling or possessing a private collection of vintage wines in their original packages, including an executor, administrator, personal representative, guardian or conservator of an estate, sheriff, trustee in bankruptcy, or person appointed or authorized by a court to act upon or execute a court order or writ of execution with regard to the disposition of that vintage wine, is authorized to sell that vintage wine at auction on consignment through an auctioneer licensed herein. The auctioneer involved in such sale shall ensure that each bottle of vintage wine sold from a private collection has a permanently fixed label stating that the bottle was acquired from a private collection.

3. The supervisor of liquor control is hereby authorized to issue a license to conduct auctions of vintage wine to any person licensed as an auctioneer pursuant to chapter 343, RSMo, and regularly conducting business as an auctioneer at a fixed location in this state within a city in a county of the first classification with a charter form of government; provided, however, that no such license to auction vintage wine may be issued to any person, or any entity controlled in whole or in part by a person, who:

(1) Has been convicted of a felony or of any offense under this\* chapter;

(2) Either possesses a current license to sell intoxicating liquor at wholesale or retail, or previously possessed such a license which was revoked for cause; or

(3) Has not been continuously in business in this state as an auctioneer for a period of ten years prior to making application for such license to auction vintage wine. The license to auction vintage wine shall be in addition to any license or permit requirements imposed by ordinance within the county or municipal jurisdictions in which the auctioneer conducts such business.

4. No auction of vintage wine may be conducted off the business premises of the auctioneer. No vintage wine sold at auction shall be consumed on the premises of the auctioneer, nor shall any original package of vintage wine be opened on such premises in the course of any such auction, except as provided herein. A license to conduct auctions of vintage wine shall be issued for a period of one year and shall authorize the auctioneer to conduct not more than six auctions of vintage wine during such year. The license shall be issued in such form and upon the completion of such application as may be required by the supervisor of liquor control. The fee for such license shall be five hundred dollars per year.

5. A municipality or person legally owning, controlling or possessing a private collection of vintage wines in their original packages may ship the vintage wine in such packages from any location within the state of Missouri to an auctioneer licensed pursuant to this act. Upon receipt of the vintage wine the auctioneer shall be responsible for the storage and warehousing thereof, for the labeling thereof pursuant to the requirements of subsection 2 of this section, for the delivery of the vintage wine to the purchasers at auction, and for the payment and transfer of any applicable state and local taxes in connection with the auction sale.

6. An auctioneer licensed to sell vintage wine pursuant to this section may hold vintage wine tastings on the premises where an auction of such vintage wine is to be conducted within the period of twenty-four hours immediately preceding the commencement of the auction.

7. An auctioneer licensed pursuant to this section shall be subject to all restrictions, regulations and provisions of this chapter governing the acquisition, storage and sale of intoxicating liquor for off-premises consumption which are not inconsistent with the provisions of this\* section.

8. An auctioneer who affixes a label to any bottle of vintage wine, as provided in subsection 2 of this section, without having determined through the exercise of reasonable diligence that the wine was acquired from a bona fide private collection, shall be guilty of a class C misdemeanor and, upon a finding of or plea of guilty with regard to any such misdemeanor, shall be subject to cancellation of the license issued pursuant to subsection 3 of this section.

(L. 1996 S.B. 933, A.L. 2005 S.B. 262) \*The word "this" does not appear in original rolls.

\*\*"This act" (S.B. 933, 1996) contains numerous sections. Consult Disposition of Sections table for definitive listing.

**311.192. Wine manufacturer defined.** The term "**wine manufacturer**" as used in this chapter shall mean any person, partnership, association of persons, or corporation who has procured a license under subdivision (2) of subsection 1 of section 311.180 or section 311.190, and who manufactures in excess of two hundred gallons of wine per calendar year.

(L. 2009 H.B. 132)

**311.193. Vintage wine, municipalities may sell by sealed bids—issuance of license, restrictions—consumption on premises prohibited, when—shipping—wine tastings—violations, and penalty.**

1. As used in this section, the term "**vintage wine**" means bottled domestic white, rose, or sparkling wine which is not less than five years old, domestic red wine which is not less than ten years old, or imported white, rose, red, sparkling, or port wine which is not less than three years old.

2. Notwithstanding any other provisions of this chapter, any municipality legally owning, controlling or possessing a private collection of vintage wines in their original packages is authorized to sell such Vintage wine through a sealed bid process. The municipality may set a minimum bid and may reserve the right to reject all bids. The municipality shall designate a municipal employee to sell vintage wine through a sealed bid process who shall ensure that each bottle of vintage wine sold from a private collection has a permanently fixed label stating that the bottle was acquired from a private collection.

3. The supervisor of liquor control is hereby authorized to issue a license to a designated municipal employee provided that no such license to sell vintage wine through a sealed bid process may be issued to any person who:

(1) Has been convicted of a felony or of any offense under this chapter;

(2) Either possesses a current license to sell intoxicating liquor at wholesale or retail, or previously possessed such a license which was revoked for cause.

4. The license to sell vintage wine through a sealed bid process shall be in addition to any license or permit requirements imposed by ordinance within the county or municipality.

5. No vintage wine sold through the sealed bid process shall be consumed on the premises of the municipality, nor shall any original

package of vintage wine be opened on such premises, except as provided herein. A license to sell vintage wine through a sealed bid process shall be issued for a period of one year and shall authorize the designated municipal employee to sell such wine not more than six different times during that year. The license shall be issued in such form and upon completion of such application as may be required by the supervisor of liquor control. The fee for such license shall be fifty dollars per year which shall be paid by the municipality.

6. The municipality legally owning, controlling, or possessing a private collection of vintage wines in their original packages may ship the vintage wine in such packages from any location within the state of Missouri to the designated municipal employee licensed pursuant to this section. Upon receipt of the vintage wine the designated municipal employee shall be responsible for the storage and warehousing thereof, for the labeling thereof pursuant to the requirements of subsection 2 of this section, for the delivery of the vintage wine to the purchasers, and for the payment and transfer of any applicable state and local taxes in connection with the sale.

7. The designated municipal employee licensed to sell vintage wine pursuant to this section may hold vintage wine tastings on the premises where the vintage wine is stored within the period of twenty-four hours immediately preceding the first date on which sealed bids will be accepted.

8. The designated municipal employee licensed pursuant to this section shall be subject to all restrictions, regulations, and provisions of this chapter governing the acquisition, storage, and sale of intoxicating liquor for off-premises consumption which are not inconsistent with the provisions of this section.

9. A municipal employee designated by the municipality to sell vintage wine through a sealed bid process who affixes a label to any bottle of wine, as provided in subsection 2 of this section, without having determined through the exercise of reasonable diligence that the wine was acquired from a bona fide private collection, shall be guilty of a class C misdemeanor and, upon a finding of or plea of guilty with regard to any such misdemeanor, shall be subject to a cancellation of the license issued pursuant to subsection 3 of this section.

(L. 2005 S.B. 262)

**311.195. Microbrewery, defined—license, fee—retail license allowed, procedure—sale to wholesalers allowed, when—certain exemptions, when.**

1. As used in this section, the term "**microbrewery**" means a business whose primary activity is the brewing and selling of beer, with an annual production of ten thousand barrels or less.

2. A microbrewer's license shall authorize the licensee to manufacture beer and malt liquor in quantities not to exceed ten thousand barrels per annum. In lieu of the charges provided in section 311.180, a license fee of five dollars for each one hundred barrels or fraction thereof, up to a maximum license fee of two hundred fifty dollars, shall be paid to and collected by the director of revenue.

3. Notwithstanding any other provision of this chapter to the contrary, the holder of a microbrewer's license may apply for, and the supervisor of alcohol and tobacco control may issue, a license to sell all kinds of intoxicating liquor, as defined in this chapter, by the drink at retail for consumption on the premises of the microbrewery or in close proximity to the microbrewery. No holder of a microbrewer's license, or any employee, officer, agent, subsidiary, or affiliate thereof, shall have more than ten licenses to sell intoxicating liquor by the drink at retail for consumption on the premises.

4. The holder of a microbrewer's license may also sell beer and malt

liquor produced on the brewery premises to duly licensed wholesalers. However, holders of a microbrewer's license shall not, under any circumstances, directly or indirectly, have any financial interest in any wholesaler's business, and all such sales to wholesalers shall be subject to the restrictions of sections 311.181 and 311.182.

5. A microbrewer who is a holder of a license to sell intoxicating liquor by the drink at retail for consumption on the premises shall be exempt from the provisions of section 311.280, for such intoxicating liquor that is produced on the premises in accordance with the provisions of this chapter. For all other intoxicating liquor sold by the drink at retail for consumption on the premises that the microbrewer possesses a license for must be obtained in accordance with section 311.280.

(L. 1990 H.B. 1180, A.L. 1993 H.B. 63, A.L. 2003 S.B. 298 merged with S.B. 540, A.L. 2009 H.B. 132, A.L. 2016 S.B. 919)

**311.196. Consumption off the premises, sale of beer permitted for restaurant bar without an on-site brewery, when.** Notwithstanding any other provision of law to the contrary, any restaurant bar without an on-site brewery that serves twenty or more different types of draft beer may sell thirty-two fluid ounces or more of such beer to customers for consumption off the premises of such bar or tavern. As used in this section, the term "restaurant bar" means any establishment having a restaurant or similar facility on the premises at least fifty percent of the gross income of which is derived from the sale of prepared meals or food consumed on such premises.

(L. 2009 H.B. 132, A.L. 2012 H.B. 1498)

**311.197. Samples, furnishing and acceptance of, when.**

1. A wholesaler of malt liquor may furnish or give, and a retailer may accept, a sample of malt liquor as long as the retailer has not previously purchased the brand of malt liquor from that wholesaler if all of the following requirements are met:

(1) The sample shall not be more than seventy-two fluid ounces; except if a particular product is not available in a size of seventy-two fluid ounces or less, a wholesaler may furnish or give the next larger size to the retailer;

(2) The wholesaler shall keep a record of the name of the retailer and the quantity of each brand furnished or given to such retailer; and

(3) No samples of malt liquor provided shall be consumed or opened on the premises of the retailer except as provided by the retail license.

2. For purposes of this section, brands shall be differentiated by differences in the brand names of the products or the nature of the products, including products that differ in the designation of class, type, or kind. Differences in packaging, such as differences in the style, type, or size of the product container or the color or design of a label shall not be considered different brands.

(L. 2013 S.B. 121)

**311.198. Portable refrigeration units, lease to retail licensee, when — requirements — duration of lease — rulemaking authority — expiration date.**

1. Notwithstanding any other provision of law, rule, or regulation to the contrary, a brewer may lease to the retail licensee and the retail licensee may accept portable refrigeration units at a total lease value equal to the cost of the unit to the brewer plus two percent of the total lease value as of the execution of the lease. Such portable refrigeration units shall remain the property of the brewer. The brewer may also enter into lease agreements with wholesalers, who may enter into sublease agreements with retail licensees in which the value contained



in the sublease is equal to the unit cost to the brewer plus two percent of the total lease value as of the execution of the lease. If the lease agreement is with a wholesaler, the portable refrigeration units shall become the property of the wholesaler at the end of the lease period, which is to be defined between the brewer and the wholesaler. A wholesaler may not directly or indirectly fund the cost or maintenance of the portable refrigeration units. Brewers shall be responsible for maintaining adequate records of retailer payments to be able to verify fulfillment of lease agreements. No portable refrigeration unit may exceed forty cubic feet in storage space. A brewer may lease, or wholesaler may sublease, not more than one portable refrigeration unit per retail location. Such portable refrigeration unit may bear in a conspicuous manner substantial advertising matter about a product or products of the brewer and shall be visible to consumers inside the retail outlet. Notwithstanding any other provision of law, rule, regulation, or lease to the contrary, the retail licensee is hereby authorized to stock, display, and sell any product in and from the portable refrigeration units. No dispensing equipment shall be attached to a leased portable refrigeration unit, and no beer, wine, or intoxicating liquor shall be dispensed directly from a leased portable refrigeration unit. Any brewer or wholesaler that provides portable refrigeration units shall within thirty days thereafter notify the division of alcohol and tobacco control on forms designated by the division of the location, lease terms, and total cubic storage space of the units. The division is hereby given authority, including rulemaking authority, to enforce this section and to ensure compliance by having access to and copies of lease, payment, and portable refrigeration unit records and information.

2. Any lease or sublease executed under this section shall not exceed five years in duration and shall not contain any provision allowing for or requiring the automatic renewal of the lease or sublease.

3. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after January 1, 2017, shall be invalid and void.

4. This section shall expire on January 1, 2020. Any lease or sublease executed under this section prior to January 1, 2020, shall remain in effect until the expiration of such lease or sublease.

(L. 2016 S.B. 919) Effective 1-01-17

Expires 1-01-20 311.200. Licenses—retail liquor dealers—fees—applications.

### **311.200. Licenses — retail liquor dealers — fees — applications.**

1. No license shall be issued for the sale of intoxicating liquor in the original package, not to be consumed upon the premises where sold, except to a person engaged in, and to be used in connection with, the operation of one or more of the following businesses: a drug store, a cigar and tobacco store, a grocery store, a general merchandise store, a confectionery or delicatessen store, nor to any such person who does not have and keep in his store a stock of goods having a value according to invoices of at least one thousand dollars, exclusive of fixtures and intoxicating liquors. Under such license, no intoxicating liquor shall be consumed on the premises where sold nor shall any original package be opened on the premises of the vendor except as otherwise provided in this law. For every license for sale at retail in the original package, the licensee shall pay to the director of revenue the sum of one hundred dollars per year.

2. For a permit authorizing the sale of malt liquor, as defined in

section 311.490, by grocers and other merchants and dealers in the original package direct to consumers but not for resale, a fee of fifty dollars per year payable to the director of the department of revenue shall be required. The phrase “**original package**” shall be construed and held to refer to any package containing one or more standard bottles, cans, or pouches of beer. Notwithstanding the provisions of section 311.290, any person licensed pursuant to this subsection may also sell malt liquor at retail between the hours of 9:00 a.m. and midnight on Sunday.

3. For every license issued for the sale of malt liquor, as defined in section 311.490, at retail by drink for consumption on the premises where sold, the licensee shall pay to the director of revenue the sum of fifty dollars per year. Notwithstanding the provisions of section 311.290, any person licensed pursuant to this subsection may also sell malt liquor at retail between the hours of 9:00 a.m. and midnight on Sunday.

4. For every license issued for the sale of malt liquor, as defined in section 311.490, and light wines containing not in excess of fourteen percent of alcohol by weight made exclusively from grapes, berries and other fruits and vegetables, at retail by the drink for consumption on the premises where sold, the licensee shall pay to the director of revenue the sum of fifty dollars per year.

5. For every license issued for the sale of all kinds of intoxicating liquor, at retail by the drink for consumption on premises of the licensee, the licensee shall pay to the director of revenue the sum of three hundred dollars per year, which shall include the sale of intoxicating liquor in the original package.

6. For every license issued to any railroad company, railway sleeping car company operated in this state, for sale of all kinds of intoxicating liquor, as defined in this chapter, at retail for consumption on its dining cars, buffet cars and observation cars, the sum of one hundred dollars per year. A duplicate of such license shall be posted in every car where such beverage is sold or served, for which the licensee shall pay a fee of one dollar for each duplicate license.

7. All applications for licenses shall be made upon such forms and in such manner as the supervisor of alcohol and tobacco control shall prescribe. No license shall be issued until the sum prescribed by this section for such license shall be paid to the director of revenue.

(RSMo 1939 § 4901, A.L. 1945 p. 1043, A.L. 1945 p. 1061, A. 1949 S.B. 1114, A.L. 1981 S.B. 126, A.L. 1983 H.B. 85, et al., A.L. 1995 S.B. 43, A.L. 2003 S.B. 298, A.L. 2009 H.B. 132, A.L. 2013 S.B. 121, A.L. 2014 S.B. 653, A.L. 2014 H.B. 1304 merged with S.B. 689, A.L. 2016 S.B. 919)

(1954) Operator of drug store which was located within zoning district in city in which the sale of intoxicating liquors was not authorized, held not entitled to a license from the city for sale of such liquor in original packages. State ex rel. Barnett v. Sappington (A.), 266 S.W.2d 774.

### **311.201. Draft beer, sale of 32 to 128 fluid ounces dispensed on premises for consumption off premises — requirements.**

1. Any person who is licensed to sell intoxicating liquor in the original package at retail as provided in subsection 1 of section 311.200 may sell from thirty-two to one hundred twenty-eight fluid ounces of draft beer to customers in containers filled by any employee of the retailer on the premises for consumption off such premises. Any employee of the licensee shall be at least twenty-one years of age to fill containers with draft beer.

2. No provision of law, rule, or regulation of the supervisor of alcohol and tobacco control shall be interpreted to allow any wholesaler, distributor, or manufacturer of intoxicating liquor to furnish dispensing or cooling equipment, or containers that are filled or refilled under subsection 1 of this section, to any person who is licensed to sell intoxicating liquor in the original package at retail as provided in subsection 1 of section 311.200.

3. (1) Containers that are filled or refilled under subsection 1 of this section shall be affixed with a label or a tag that shall contain the following information in type not smaller than three millimeters in height and not more than twelve characters per inch:

- (a) Brand name of the product dispensed;
- (b) Name of brewer or bottler;
- (c) Class of product, such as beer, ale, lager, bock, stout, or other brewed or fermented beverage;
- (d) Net contents;
- (e) Name and address of the business that filled or refilled the container;
- (f) Date of fill or refill;
- (g) The following statement: "This product may be unfiltered and unpasteurized. Keep refrigerated at all times."

(2) Containers that are filled or refilled under subsection 1 of this section shall be affixed with the alcoholic beverage health warning statement as required by the Federal Alcohol Administration Act, 27 CFR Sections 16.20 to 16.22.

4. (1) The filling and refilling of containers shall only occur on demand by a customer and containers shall not be prefilled by the retailer or its employee.

(2) Containers shall only be filled or refilled by an employee of the retailer.

(3) Containers shall be filled or refilled as follows:

(a) Containers shall be filled or refilled with a tube as described in subdivision (4) of this subsection and:

a. Food grade sanitizer shall be used in accordance with the Environmental Protection Agency registered label use instructions;

b. A container of liquid food-grade sanitizer shall be maintained for no more than ten malt beverage taps that will be used for filling and refilling containers;

c. Each container shall contain no less than five tubes that will be used only for filling and refilling containers;

d. The container shall be inspected visually for contamination;

e. After each filling or refilling of a container, the tube shall be immersed in the container with the liquid food-grade sanitizer; and

f. A different tube from the container shall be used for each filling or refilling of a container; or

(b) Containers shall be filled or refilled with a contamination-free process and:

a. The container shall be inspected visually for contamination;

b. The container shall only be filled or refilled by the retailer's employee; and

c. The filling or refilling shall be in compliance with the Food and Drug Administration Code 2009, Section 3-304.17(c).

(4) Containers shall be filled or refilled from the bottom of the container to the top with a tube that is attached to the malt beverage faucet and extends to the bottom of the container or with a commercial filling machine.

(5) When not in use, tubes to fill or refill shall be immersed and stored in a container with liquid food-grade sanitizer.

(6) After filling or refilling a container, the container shall be sealed as set forth in subsection 1 of this section.

(L. 2016 S.B. 919)

### **311.205. Self-dispensing of beer permitted, when.**

\*1. Any person licensed to sell liquor at retail by the drink for consumption on the premises where sold may use a self-dispensing system, which is monitored and controlled by the licensee and allows patrons of the licensee to self-dispense beer or wine. Before a patron may dispense beer or wine, an employee of the licensee must first authorize an amount of beer or wine, not to exceed thirty-two ounces of beer or sixteen ounces of wine per patron per authorization, to be dispensed by the self-dispensing system.

2. No provision of law or rule or regulation of the supervisor shall be interpreted to allow any wholesaler, distributor, or manufacturer of intoxicating liquor to furnish self-dispensing or cooling equipment or provide services for the maintenance, sanitation, or repair of self-dispensing systems.

(L. 2012 H.B. 1498, A.L. 2016 S.B. 919 merged with S.B. 994)

Effective 8-28-16 (S.B. 919); \*10-14-16 (S.B. 994), see § 21.250

\*S.B. 994 was vetoed July 1, 2016. The veto was overridden on September 14, 2016.

### **311.210. Application—remittance, made to whom, powers of supervisor.**

1. All applications for all licenses mentioned in this chapter shall be made to the supervisor of liquor control and shall be accompanied by a proper remittance made payable to the director of revenue.

2. The supervisor of liquor control shall have the power and duty to determine whether each application for such license shall be approved or disapproved. Upon disapproval of any application for a license, the supervisor of liquor control shall so notify the applicant in writing, setting forth therein the grounds and reasons for disapproval, and shall return therewith the applicant's remittance. Upon approval of any application for a license, the supervisor of liquor control shall issue to the applicant the appropriate license and contemporaneously with such issuance shall file a notice of the issuance of such license together with the applicant's remittance in payment of the same with the director of revenue. The director of revenue shall immediately issue a receipt in duplicate for such payment, one copy of which shall be filed with the supervisor of liquor control and one copy retained by the director of revenue.

(RSMo 1939 § 4888, A.L. 1945 p. 1043)

**311.211. Fishing skills contest, ticket sales to participants on premises not ground to deny license.** Sales of tickets for participation in fishing contests wherein the skill of the participant is an element shall not be construed as gambling or participation in gambling activities for the purpose of administering the provisions of this chapter, or rules and regulations made pursuant thereto. The division of alcohol and tobacco control shall not deny, suspend or revoke any license issued under those chapters because of the sale of such tickets on the licensed premises.

(L. 1989 S.B. 419 § 1, A.L. 2009 H.B. 132)

**311.212. Licenses, suspension or revocation of, violations occurring more than three years prior, not valid grounds.** The division of liquor control shall not suspend, revoke, refuse to renew or refuse to grant a license issued under the provisions of this chapter based on a

violation of any provision of this chapter or of any rule or regulation promulgated by the supervisor of liquor control, when such violation occurred more than three years prior to the division's decision to suspend, revoke, refuse to renew or refuse to grant such license.

(L. 1987 S.B. 150 § 2, A.L. 2009 H.B. 132)

**311.218. Fourth of July celebrations, temporary permits for wine and malt liquor for certain organizations, fee.**

1. Other provisions of this chapter to the contrary notwithstanding, a permit for the sale of wine and malt liquor for consumption on the premises where sold may be issued to any church, school, civic, service, fraternal, veteran, political, or charitable club or organization for sale of such wine and malt liquor at any picnic, bazaar, fair, festival or similar gathering or event held to commemorate the annual anniversary of the signing of the Declaration of Independence of the United States. Such permit shall be issued only during the period from June fifteenth to July fifteenth annually and only for the day or days named therein and it shall not authorize the sale of wine and malt liquor except between the hours of 10:00 a.m. and midnight and for not more than seven days by any such organization. The permit may be issued to cover more than one place of sale within the general confines of the place where the gathering or event is held; provided, however, no permit shall be issued to any organization which selects or restricts the membership thereof on the basis of race, religion, color, creed, or place of national origin. For the permit, the holder thereof shall pay to the director of revenue the sum of one hundred dollars. No provision of law or rule or regulation of the supervisor shall prevent any wholesaler or distributor from providing customary storage, cooling or dispensing equipment for use by the holder of the permit at such gathering or event.

2. As used in this section the term "wine" means a beverage containing not in excess of fourteen percent of alcohol by weight.

(L. 1983 H.B. 460, A.L. 2009 H.B. 132)

**311.220. Counties and cities may charge for licenses — amount — display of license.**

1. In addition to the permit fees and license fees and inspection fees by this law required to be paid into the state treasury, every holder of a permit or license authorized by this law shall pay into the county treasury of the county wherein the premises described and covered by such permit or license are located, or in case such premises are located in the City of St. Louis, to the collector of revenue of said city, a fee in such sum not in excess of the amount by this law required to be paid into the state treasury for such state permit or license, as the county commission, or the corresponding authority in the City of St. Louis, as the case may be, shall by order of record determine, and shall pay into the treasury of the municipal corporation, wherein said premises are located, a license fee in such sum, not exceeding one and one-half times the amount by this law required to be paid into the state treasury for such state permit or license, as the lawmaking body of such municipality, including the City of St. Louis may by ordinance determine.

2. The board of aldermen, city council or other proper authorities of incorporated cities may charge for licenses issued to manufacturers, distillers, brewers, wholesalers and retailers of all intoxicating liquor, located within their limits, fix the amount to be charged for such license, subject to the limitations of this law, and provide for the collection thereof, make and enforce ordinances for the regulation and control of the sale of all intoxicating liquors within their limits, provide for penalties for the violation of such ordinances, where not inconsistent with the provisions of this law.

3. Every licensee shall keep displayed prominently at all times on their licensed premises any city or county license designating their premises as a place licensed by the city or county to sell intoxicating

liquors. Nonetheless, no application shall be disapproved by the supervisor of alcohol and tobacco control for failure to possess a city or county license when making application for a license. Within ten days from the issuance of said city or county license, the licensee shall file with the supervisor of alcohol and tobacco control a copy of such city or county license.

(RSMo 1939 § 4904, A.L. 2016 S.B. 919)

(1954) In certiorari proceeding to review denial of liquor license by city liquor control director, court could only quash its writ or quash the decision of the director of liquor control. State ex rel. Bruno v. Johnson (A.), 270 S.W.2d 99.

(1956) Evidence that applicant for city liquor license was sole owner of business rather than partner of her husband held sufficient to require issuance of such license. State ex rel. Sirna v. Johnson (A.), 287 S.W.2d 114.

(1957) City ordinance prohibiting sales by any wholesaler to retailers who are delinquent in payment of accounts to any wholesaler held valid and not in conflict with either the liquor control law or the nonintoxicating beer law. Passler v. Johnson (Mo.), 304 S.W.2d 903.

(1968) Evidence sufficient to support petition for writ of mandamus to compel city council to issue liquor license. State v. City of St. Robert (A.), 424 S.W.2d 73.

(1969) No provision is made for notice and hearing in case of municipal authority to grant or deny liquor license and court will not imply requirement of notice. Kopper Kettle Restaurants, Inc. v. City of St. Robert (A.), 439 S.W.2d 1.

**311.230. Application for license to manufacture or sell made to supervisor.**

Application for license to manufacture or sell intoxicating liquor, under the provisions of this law, shall be made to the supervisor of liquor control.

(RSMo 1939 § 4896, A.L. 1967 p. 424)

**311.240. Period of license—federal license required—contents of license—renewals.**

1. On approval of the application and payment of the license tax provided in this chapter, the supervisor of liquor control shall grant the applicant a license to conduct business in the state for a term to expire with the thirtieth day of June next succeeding the date of such license. A separate license shall be required for each place of business. Of the license tax to be paid for any such license, the applicant shall pay as many twelfths as there are months (part of a month counted as a month) remaining from the date of the license to the next succeeding July first.

2. No such license shall be effective, and no right granted thereby shall be exercised by the licensee, unless and until the licensee shall have obtained and securely affixed to the license in the space provided therefor an original stamp or other form of receipt issued by the duly authorized representative of the federal government, evidencing the payment by the licensee to the federal government of whatever excise or occupational tax is by any law of the United States then in effect required to be paid by a dealer engaged in the occupation designated in said license. Within ten days from the issuance of said federal stamp or receipt, the licensee shall file with the supervisor of liquor control a photostat copy thereof, or such duplicate or indented and numbered stub therefrom as the federal government may have issued to the taxpayer with the original.

3. Every license issued under the provisions of this chapter shall particularly describe the premises at which intoxicating liquor may be sold thereunder, and such license shall not be deemed to authorize or permit the sale of intoxicating liquor at any place other than that described therein.

4. Applications for renewal of licenses must be filed on or before the first day of May of each calendar year.

5. In case of failure to submit the completed renewal application required under subsection 4 of this section on or before the first day of May, there shall be added to the amount of the renewal fee a late charge of one hundred dollars from the second day of May to the last day of May; a late charge of two hundred dollars if the renewal application is submitted on the first day of June to the last day of June; or a late charge of three hundred dollars if the renewal application is submitted after the last day of June.

(RSMo 1939 § 4897, A.L. 2007 S.B. 299 & S.B. 616)

### **311.250. Licenses nontransferable—exceptions.**

1. No license issued under this chapter shall be transferable or assignable except as herein provided. In the event of the death of the licensee, the widow or widower or the next of kin of such deceased licensee, who shall meet the other requirements of this law may make application and the supervisor of liquor control may transfer such license to permit the operation of the business of the deceased for the remainder of the period for which a license fee has been paid by the deceased.

2. Whenever one or more members of a partnership withdraws from the partnership the supervisor of liquor control, upon being requested, shall permit the remaining partner, or partners, originally licensed, to continue to operate for the remainder of the period for which the license fee has been paid, without obtaining a new license.

(RSMo 1939 § 4893, A.L. 1947 V. 1 p. 372)

### **311.260. More than five licenses by any one person prohibited, exception.**

1. No person, corporation, employee, officer, agent, subsidiary, or affiliate thereof, shall:

(1) Have more than five licenses; or

(2) Be directly or indirectly interested in any business of any other person, corporation, or employee, officer, agent, subsidiary, or affiliate thereof, who sells intoxicating liquor at retail by the drink for consumption on the premises described in any license; or

(3) Sell intoxicating liquor at retail by the drink for consumption at the place of sale at more than five places in this state.

2. Notwithstanding any other provision of this chapter or municipal ordinance to the contrary, for the purpose of determining whether a person, corporation, employee, officer, agent, subsidiary, or affiliate thereof has a disqualifying interest in more than five licenses pursuant to subsection 1 of this section, there shall not be counted any license to sell intoxicating liquor at retail by the drink for consumption on the following premises:

(1) Restaurants where at least fifty percent of the gross income of which is derived from the sale of prepared meals or food consumed on the premises where sold; or

(2) Establishments which have an annual gross income of at least two hundred thousand dollars from the sale of prepared meals or food consumed on the premises where sold; or

(3) Facilities designed for the performance of live entertainment and where the receipts for admission to such performances exceed one hundred thousand dollars per calendar year; or

(4) Any establishment having at least forty rooms for the overnight accommodation of transient guests.

(RSMo 1939 § 4907, A.L. 1971 S.B. 18, A.L. 1990 H.B. 1180, A.L. 1995 S.B. 43, A.L. 2003 S.B. 298, A.L.

2009 H.B. 132)

### **311.265. Retailer going out of business in debt to wholesaler, procedure—new license prohibited.**

When a retailer licensed under this chapter, is delinquent beyond the permissible ordinary commercial credit period, the wholesaler shall notify the supervisor of liquor control in writing of the debt and no new or renewal license shall be issued to the retailer until the reported debt is satisfied. The wholesaler shall immediately notify the supervisor of liquor control in writing when the debt is satisfied. As used in this section, the term "retailer" shall include an individual, corporation, partnership or limited liability company, all officers and directors of such person or entity and all stockholders owning, legally or beneficially, directly or indirectly, ten percent or more of the stock of such person or entity.

(L. 1985 H.B. 166, A.L. 1995 S.B. 43, A.L. 2009 H.B. 132)

### **311.270. License for sale of malt liquor only—certain restrictions—penalty for violation.**

1. It shall be unlawful for any person, holding a license for the sale of malt liquor only, to possess, consume, store, sell or offer for sale, give away or otherwise dispose of, upon or about the premises mentioned in said license, or, upon or about said premises, to suffer or permit any person to possess, consume, store, sell or offer for sale, give away or otherwise dispose of, any intoxicating liquor of any kind whatsoever other than malt liquor brewed or manufactured by the method, in the manner, and of the ingredients, required by the laws of this state. Whosoever shall violate any provision of this section shall be guilty of a misdemeanor, and upon conviction thereof by any court of competent jurisdiction shall be punished as in this chapter provided as to misdemeanors. Upon such conviction becoming final, the license of the person so convicted shall forthwith, and without other or further action, order or proceeding, be deemed to have been revoked, and shall by the licensee be forthwith surrendered to the supervisor and canceled.

2. No license for the sale of malt liquor only shall be issued to any person having in his possession or on the premises to be licensed a federal excise or occupational tax stamp or receipt, designating such person or premises as the person or place for dealing in intoxicating liquor other than malt liquors, or evidencing the payment of a tax for being a dealer in liquors other than malt liquors. If any person having a license for the sale of malt liquors only shall have in his possession or on the licensed premises a federal excise or occupational tax stamp or special tax receipt, designating such person or premises as the person or place for dealing in intoxicating liquors, except malt liquors, or evidencing the payment of a tax for being a dealer in liquor other than malt liquors, the license of such person shall be revoked by the supervisor. In any prosecution for the violation of this section, evidence that the defendant has in his possession or upon the premises in question a federal excise or occupational tax stamp or special tax receipt, designating such person or premises as the person or place for dealing in intoxicating liquors other than malt liquors, or evidencing the payment of a tax for being a dealer in liquors, other than malt liquors, shall be deemed prima facie evidence of a violation of the provisions of this section.

3. Any person holding a license for the sale of malt liquor only, who shall have in his possession or upon the licensed premises a federal excise or occupational tax stamp or receipt, designating such person or premises as the person or place for dealing in intoxicating liquors, except malt liquors, or evidencing the payment of a tax for being a dealer in liquor other than malt liquors, or for a term to expire after the expiration of his permit, shall be deemed guilty of a misdemeanor and upon conviction shall be punished by imprisonment in the county jail for a term of not less than three months, nor more than one year, or by a fine of not less than one hundred dollars, nor more than one thousand dollars, or by both such fine and imprisonment.

**Section: 311.0273.1(Repealed L. 2012 H.B. 1498 § A)**

**311.275. Wholesale-solicitors registration required — primary American source of supply, defined — vintage wine registration — approval of application, when.**

1. For purposes of tax revenue control, beginning January 1, 1980, no holder of a license to solicit orders for the sale of intoxicating liquor, as defined in this chapter, within this state, other than a wholesale-solicitor, shall solicit, accept, or fill any order for any intoxicating liquor from a holder of a wholesaler's license issued under this chapter, unless the holder of such solicitor's license has registered with the division of alcohol and tobacco control as the primary American source of supply for the brand of intoxicating liquor sold or sought to be sold. The supervisor of alcohol and tobacco control shall provide forms for annual registration as the primary American source of supply, and shall prescribe the procedures for such registration.

2. Beginning January 1, 1980, no holder of a wholesaler's license issued under this chapter shall order, purchase or receive any intoxicating liquor from any solicitor, other than a wholesale-solicitor, unless the solicitor has registered with the division of alcohol and tobacco control as the primary American source of supply for the brand of intoxicating liquor ordered, purchased or received.

3. The term **"primary American source of supply"** as used herein shall mean the distiller, producer, the owner of the commodity at the time it became a marketable product, the bottler, or the exclusive agent of any such distiller, producer, bottler or owner, the basic requirement being that the nonresident seller be the first source closest to the manufacturer in the channel of commerce from whom the product can be secured by American wholesalers.

4. Any vintage wine solicitor licensed under section 311.180 may register as the primary American source of supply for vintage wine with the division of alcohol and tobacco control, provided that another solicitor is not registered as the primary American source of supply for the vintage wine and the vintage wine has been approved for sale by the federal Alcohol and Tobacco Tax and Trade Bureau.

5. The supervisor of alcohol and tobacco control shall approve or deny any application for primary American source of supply for any intoxicating liquor product within five working days following the receipt of a properly completed application. Any such application for an intoxicating liquor product received by the supervisor of alcohol and tobacco control that is not approved or denied within five working days shall be considered conditionally approved and such intoxicating liquor product may be solicited, sold, shipped, ordered, purchased, and received in this state. All such applications submitted by applicants located in the state, and exclusively doing business in the state, shall be approved or denied before any such applications originating from other states are approved or denied.

(L. 1979 H.B. 701, A.L. 2007 S.B. 299 & S.B. 616, A.L. 2017 H.B. 115)

**311.280. Unlawful for licensed retailer to purchase from other than licensed wholesaler--prohibited acts.**

1. It shall be unlawful for any person in this state holding a retail liquor license to purchase any intoxicating liquor except from, by or through a duly licensed wholesale liquor dealer in this state. It shall be unlawful for such retail liquor dealer to sell or offer for sale any intoxicating liquor purchased in violation of the provisions of this section. Any person violating any provision of this section shall be deemed guilty of a misdemeanor.

2. Any retailer licensed pursuant to this chapter shall not:

(1) Sell intoxicating liquor with an alcohol content of less than five percent by weight to the consumer in an original carton received from the wholesaler that has been mutilated, torn apart, or cut apart; or

(2) Repackage intoxicating liquor with an alcohol content of less than five percent by weight in a manner misleading to the consumer or that results in required labeling being omitted or obscured.

(RSMo 1939 § 4913, A.L. 2003 S.B. 298, A.L. 2009 H.B. 132)

**311.290. Time fixed for opening and closing premises--closed place defined--penalty.** No person having a license issued pursuant to this chapter, nor any employee of such person, shall sell, give away, or permit the consumption of any intoxicating liquor in any quantity between the hours of 1:30 a.m. and 6:00 a.m. on weekdays and between the hours of 1:30 a.m. Sunday and 6:00 a.m. Monday, upon or about his or her premises. If the person has a license to sell intoxicating liquor by the drink, his premises shall be and remain a closed place as defined in this section between the hours of 1:30 a.m. and 6:00 a.m. on weekdays and between the hours of 1:30 a.m. Sunday and 6:00 a.m. Monday. Where such licenses authorizing the sale of intoxicating liquor by the drink are held by clubs, hotels, or bowling alleys, this section shall apply only to the room or rooms in which intoxicating liquor is dispensed; and where such licenses are held by restaurants or bowling alleys whose business is conducted in one room only, then the licensee shall keep securely locked during the hours and on the days specified in this section all refrigerators, cabinets, cases, boxes, and taps from which intoxicating liquor is dispensed. A "closed place" is defined to mean a place where all doors are locked and where no patrons are in the place or about the premises. Any person violating any provision of this section shall be deemed guilty of a class A misdemeanor. Nothing in this section shall be construed to prohibit the sale or delivery of any intoxicating liquor during any of the hours or on any of the days specified in this section by a wholesaler licensed under the provisions of section 311.180 to a person licensed to sell the intoxicating liquor at retail.

(RSMo 1939 § 4891, A.L. 1941 p. 412, A.L. 1951 p. 16, A.L. 1957 p. 27, A.L. 1967 p. 424, A.L. 1979 S.B. 192, A.L. 1981 S.B. 128, A.L. 1987 S.B. 150, A.L. 2003 S.B. 298, A.L. 2009 H.B. 132, A.L. 2013 S.B. 59, A.L. 2013 S.B. 121)

(1954) Where customer placed groceries and illegally purchased whiskey in his car which was parked on driveway of grocery store, a search of his car cannot be objected to by store owner on prosecution for illegal sale of liquor. *State v. Egan (A.)*, 272 S.W.2d 719.

(1968) The opening and closing hours of liquor establishments under this section are fixed according to the system or method generally used by the people of Missouri, its business and commerce, its public agencies, and its political subdivisions, at the time when the method of computation or the meaning of the statute is brought into question. *Playboy Club, Inc. v. Myers (Mo.)*, 431 S.W.2d 221.

**311.293. Sunday sales, package liquor licensee allowed, hours, fee--city or county may also charge fee, limitations--exception.**

1. Except for any establishment that may apply for a license under section 311.089, any person possessing the qualifications and meeting the requirements of this chapter, who is licensed to sell intoxicating liquor at retail may apply to the supervisor of alcohol and tobacco control for a special license to sell intoxicating liquor at retail between the hours of 9:00 a.m. and midnight on Sundays. A licensee under this section shall pay to the director of revenue an additional fee of two hundred dollars a year payable at the same time and in the same manner as its other license fees.

2. In addition to any fee collected pursuant to section 311.220, a city or county may charge and collect an additional fee not to exceed three hundred dollars from any licensee under this section for the privilege of selling intoxicating liquor at retail between the hours of 9:00 a.m. and midnight on Sundays in such city or county; however the additional fee shall not exceed the fee charged by that city or county for a special license issued pursuant to any provision of this chapter which allows a licensee to sell intoxicating liquor by the drink for consumption on the premises of the licensee on Sundays.

3. The provisions of this section regarding the time of closing shall not apply to any person who possesses a special permit issued under section 311.174, 311.176, or 311.178.

(L. 1993 H.B. 63, A.L. 1994 S.B. 474, A.L. 2003 S.B. 298, A.L. 2012 H.B. 1498)

(2002) Section specifies only the time when liquor can be sold, and not the type of liquor which can be sold. Ozark Wholesale Beverage Company v. Supervisor of Liquor Control, 80 S.W.3d 491 (Mo. App. W.D.).

### **311.294. Wine and malt beverages, permit to allow tasting on premises—limitations.**

1. Notwithstanding any other provisions of this chapter to the contrary, any person possessing the qualifications and meeting the requirements of this chapter, who is licensed to sell intoxicating liquor in the original package at retail under sections 311.200 and 311.293, may apply to the supervisor of liquor control for a special permit to conduct wine, malt beverage and distilled spirit tastings on the licensed premises. A licensee under this section shall pay to the director of revenue an additional twenty-five dollars a year payable at the same time and manner as other license fees.

2. Nothing in this section shall be construed to permit the licensee to sell wine, malt beverages or distilled spirits for on-premises consumption.

(L. 1994 S.B. 474 § 311.295, A.L. 1995 S.B. 43)

### **311.297. Alcohol samples for tasting off licensed retail premises, when.**

1. Any winery, distiller, manufacturer, wholesaler, or brewer or designated employee may provide and pour distilled spirits, wine, or malt beverage samples off a licensed retail premises for tasting purposes provided no sales transactions take place. For purposes of this section, a "sales transaction" shall mean an actual and immediate exchange of monetary consideration for the immediate delivery of goods at the tasting site.

2. Notwithstanding any other provisions of this chapter to the contrary, any winery, distiller, manufacturer, wholesaler, or brewer or designated employee may provide, furnish, or pour distilled spirits, wine, or malt beverage samples for customer tasting purposes on any temporary licensed retail premises as described in section 311.218, 311.482, 311.485, 311.486, or 311.487, or on any tax exempt organization's licensed premises as described in section 311.090.

3. (1) Notwithstanding any other provisions of this chapter to the contrary, any winery, distiller, manufacturer, wholesaler, or brewer or designated employee may provide or furnish distilled spirits, wine, or malt beverage samples on a licensed retail premises for customer tasting purposes so long as the winery, distiller, manufacturer, wholesaler, or brewer or designated employee has permission from the person holding the retail license. The retail licensed premises where such product tasting is provided shall maintain a special permit in accordance with section 311.294 or hold a by-the-drink-for-consumption-on-the-premises-where-sold retail license. No money or anything of value shall be given to the retailers for the privilege or opportunity of conducting the on-the-premises product tasting.

(2) Distilled spirits, wine, or malt beverage samples may be dispensed by an employee of the retailer, winery, distiller, manufacturer, or brewer or by a sampling service retained by the retailer, winery, distiller, manufacturer, or brewer. All sampling service employees that provide and pour intoxicating liquor samples on a licensed retail premises shall be required to complete a server training program approved by the division of alcohol and tobacco control.

(3) Any distilled spirits, wine, or malt beverage sample provided by the retailer, winery, distiller, manufacturer, wholesaler, or brewer remaining after the tasting shall be returned to the retailer, winery,

distiller, manufacturer, wholesaler, or brewer.

(L. 2007 S.B. 299 & S.B. 616, A.L. 2011 H.B. 101)

### **311.298. Certain holidays, sale by the drink on Sunday allowed.**

When January first, March seventeenth, July fourth, or December thirty-first falls on Sunday, and on the Sundays prior to Memorial Day and Labor Day and on the Sunday on which the national championship game of the national football league is played, commonly known as "Super Bowl Sunday", any person having a license to sell intoxicating liquor by the drink may be open for business and sell intoxicating liquor by the drink under the provisions of his license on that day from the time and until the time which would be lawful on another day of the week, notwithstanding any provisions of section 311.290 or any other provision of law to the contrary.

(L. 1967 p. 425 § 1, A.L. 1969 H.B. 665, A.L. 1993 H.B. 63, A.L. 1994 S.B. 474)

### **311.299. Warning sign displayed, liquor licenses—violations.**

1. Any person who is licensed pursuant to this chapter to sell or serve alcoholic beverages at any establishment shall place on the premises of such establishment a warning sign as described in this section. Such sign shall be at least eleven inches by fourteen inches and shall read "WARNING: Drinking alcoholic beverages during pregnancy may cause birth defects." The licensee shall display such sign in a conspicuous place on the licensed premises.

2. Any employee of the supervisor of liquor control may report a violation of this section to the supervisor, and the supervisor shall issue a warning to the licensee of the violation.

3. Notwithstanding the provisions of section 311.880 to the contrary, no person who violates the provisions of this section shall be guilty of a crime.

(L. 2001 S.B. 130)

### **311.300. Persons eighteen years of age or older may sell or handle intoxicating liquor, when.**

1. Except as provided in subsections 2, 3 and 4 of this section, no person under the age of twenty-one years shall sell or assist in the sale or dispensing of intoxicating liquor.

2. In any place of business licensed in accordance with section 311.200, persons at least eighteen years of age may stock, arrange displays, operate the cash register or scanner connected to a cash register and accept payment for, and sack for carryout, intoxicating liquor. Delivery of intoxicating liquor away from the licensed business premises cannot be performed by anyone under the age of twenty-one years. Any licensee who employs any person under the age of twenty-one years, as authorized by this subsection, shall, when at least fifty percent of the licensee's gross sales does not consist of nonalcoholic sales, have an employee twenty-one years of age or older on the licensed premises during all hours of operation.

3. In any distillery, warehouse, wholesale distributorship, or similar place of business which stores or distributes intoxicating liquor but which does not sell intoxicating liquor at retail, persons at least eighteen years of age may be employed and their duties may include the handling of intoxicating liquor for all purposes except consumption, sale at retail, or dispensing for consumption or sale at retail. Any wholesaler licensed pursuant to this chapter, may employ persons of at least eighteen years of age to rotate, stock and arrange displays at retail establishments licensed to sell intoxicating liquor.

4. Persons eighteen years of age or older may, when acting in the capacity of a waiter or waitress, accept payment for or serve intoxicating liquor in places of business which sell food for consumption on the premises if at least fifty percent of all sales in those places consists of

food; provided that nothing in this section shall authorize persons under twenty-one years of age to mix or serve across the bar intoxicating beverages.

(RSMo 1939 § 4885, A. 1949 S.B. 1114, A.L. 1969 S.B. 37, A.L. 1971 H.B. 173, A.L. 1976 S.B. 487, H.B. 1367, A.L. 1981 S.B. 128, A.L. 1996 S.B. 933, A.L. 1997 H.B. 63, A.L. 2009 H.B. 132)

**311.310. Sale to minor—certain other persons, misdemeanor—exceptions—permitting drinking or possession by a minor, penalty, exception—defenses.**

1. Any licensee under this chapter, or his employee, who shall sell, vend, give away or otherwise supply any intoxicating liquor in any quantity whatsoever to any person under the age of twenty-one years, or to any person intoxicated or appearing to be in a state of intoxication, or to a habitual drunkard, and any person whomsoever except his parent or guardian who shall procure for, sell, give away or otherwise supply intoxicating liquor to any person under the age of twenty-one years, or to any intoxicated person or any person appearing to be in a state of intoxication, or to a habitual drunkard, shall be deemed guilty of a misdemeanor, except that this section shall not apply to the supplying of intoxicating liquor to a person under the age of twenty-one years for medical purposes only, or to the administering of such intoxicating liquor to any person by a duly licensed physician. No person shall be denied a license or renewal of a license issued under this chapter solely due to a conviction for unlawful sale or supply to a minor when serving in the capacity as an employee of a licensed establishment.

2. Any owner, occupant, or other person or legal entity with a lawful right to the exclusive use and enjoyment of any property who knowingly allows a person under the age of twenty-one to drink or possess intoxicating liquor or knowingly fails to stop a person under the age of twenty-one from drinking or possessing intoxicating liquor on such property, unless such person allowing the person under the age of twenty-one to drink or possess intoxicating liquor is his or her parent or guardian, is guilty of a class B misdemeanor. Any second or subsequent violation of this subsection is a class A misdemeanor.

3. It shall be a defense to prosecution under this section if:

(1) The defendant is a licensed retailer, club, drinking establishment, or caterer or holds a temporary permit, or an employee thereof;

(2) The defendant sold the intoxicating liquor to the minor with reasonable cause to believe that the minor was twenty-one or more years of age; and

(3) To purchase the intoxicating liquor, the person exhibited to the defendant a driver's license, Missouri nondriver's identification card, or other official or apparently official document, containing a photograph of the minor and purporting to establish that such minor was twenty-one years of age and of the legal age for consumption of intoxicating liquor.

(L. 1947 V. 1 p. 373 § 4885a, A.L. 1990 H.B. 1180, A.L. 2005 H.B. 972 merged with S.B. 37, et al. and S.B. 402, A.L. 2005 1st Ex. Sess. H.B. 2)

Effective 9-15-05

CROSS REFERENCE: Action for personal injuries or death when sale is proximate cause and party is convicted under 311.310, RSMo 537.053

(1964) Evidence was sufficient for superintendent to find that licensee had sold intoxicating liquor to minor and it was not necessary that licensee's guilt be determined by court or jury or that supervisor overcome any presumption of innocence of licensee in order for superintendent to suspend licensee's license. *Crooms v. Ketchum* (Mo.), 379 S.W.2d 580.

(1976) Held that it is not a defense to regulatory action under this section to assert that minor was acting as an agent for an adult. *May Dept. Stores v. Supervisor of Liquor Control* (A.), 530 S.W.2d 460.

(1980) Civil cause of action can arise in favor of a minor who suffers injury as result of becoming intoxicated on liquor illegally sold to him in a drinking establishment. *Sampson v. W. F. Enterprises, Inc.* (A.), 611 S.W.2d 333.

(1985) This statute does not impose civil liability upon a social host for serving alcohol to an intoxicated guest who subsequently injures a third party. *Harriman v. Smith* (A.), 697 S.W.2d 219.

(1987) Neither the local chapter nor the national parent of a fraternity have any civil duty to refrain from serving alcohol to any person under this section. *Andres v. Alpha Kappa Lambda Fraternity*, 730 S.W.2d 547 (Mo. banc).

(1989) Civil liability cause of action under statute limited to tavern owners who dispense alcoholic beverages by the drink. Passenger injured in accident while riding in automobile operated by allegedly intoxicated underage driver did not have cause of action against another passenger who had given intoxicating beverages to driver nor did he have cause of action against the operator of package liquor store

who allegedly sold the alcoholic beverages. (Mo.App. W.D.) *Leimkuehler v. Myers*, 780 S.W.2d 653.

(2012) Amendment to section in 2005 adding to list of possible offenders the owners and occupiers of land did not create a new civil duty and cause of action against landowners as social hosts. *Otte v. Edwards*, 370 S.W.3d 898 (Mo.App.E.D.).

**311.315. Manufacturing a false identification, offense of — penalty.**

1. A person commits the offense of manufacturing a false identification if he or she possesses any means of identification for the purpose of manufacturing and providing or selling a false identification card to a person under the age of twenty-one for the purpose of purchasing or obtaining alcohol.

2. The offense of manufacturing a false identification is a class A misdemeanor.

(L. 2014 S.B. 491)

Effective 1-01-17

**311.320. Misrepresentation of age by minor to obtain liquor—use of altered driver's license, passport or I.D. cards, penalties.**

1. Any person of the age of seventeen years and under the age of twenty-one years who shall represent that he has attained the age of twenty-one years for the purpose of purchasing, asking for or in any way receiving any intoxicating liquor, except in cases authorized by law, shall upon conviction be deemed guilty of a misdemeanor. Any person under the age of seventeen years who shall represent that he has attained the age of twenty-one years for the purpose of purchasing, asking for or in any way receiving any intoxicating liquor, except in cases authorized by law, may be considered a delinquent child and may be dealt with in accordance with the provisions of chapter 211, RSMo.

2. In addition to any other penalties established in subsection 1 of this section and established in sections 577.500 to 577.530, RSMo, any person who is less than twenty-one years of age who uses a reproduced, modified or altered chauffeur's license, motor vehicle operator's license, identification card issued by any uniformed service of the United States, passport or identification card established in section 302.181, RSMo, for the purpose of purchasing, asking for or in any way receiving any intoxicating liquor, shall be guilty of a misdemeanor and shall be subject to a fine of five hundred dollars for each separate offense.

(L. 1947 V. 1 p. 373 § 4885b, A.L. 1989 H.B. 397, A.L. 1992 H.B. 1316, A.L. 1993 H.B. 63)

Effective 6-7-93

**311.325. Purchase or possession by minor, penalty — container need not be opened and contents verified, when — consent to chemical testing deemed given, when — burden of proof on violator to prove not intoxicating liquor — section not applicable to certain students, requirements.**

1. Any person under the age of twenty-one years, who purchases or attempts to purchase, or has in his or her possession, any intoxicating liquor as defined in section 311.020 or who is visibly in an intoxicated condition as defined in section 577.001, or has a detectable blood alcohol content of more than two-hundredths of one percent or more by weight of alcohol in such person's blood is guilty of a misdemeanor. A first violation of this section shall be punishable as a class D misdemeanor. A second or subsequent violation of this section shall be punishable as a class A misdemeanor. Prior findings of guilt shall be pleaded and proven in the same manner as required by section 558.021. For purposes of prosecution under this section or any other provision of this chapter involving an alleged illegal sale or transfer of intoxicating liquor to a person under twenty-one years of age, a manufacturer-sealed container describing that there is intoxicating liquor therein need not be opened or the contents therein tested to verify that there is intoxicating liquor in such container. The alleged violator may allege that there was not intoxicating liquor in such container, but

the burden of proof of such allegation is on such person, as it shall be presumed that such a sealed container describing that there is intoxicating liquor therein contains intoxicating liquor.

2. For purposes of determining violations of any provision of this chapter, or of any rule or regulation of the supervisor of alcohol and tobacco control, a manufacturer-sealed container describing that there is intoxicating liquor therein need not be opened or the contents therein tested to verify that there is intoxicating liquor in such container. The alleged violator may allege that there was not intoxicating liquor in such container, but the burden of proof of such allegation is on such person, as it shall be presumed that such a sealed container describing that there is intoxicating liquor therein contains intoxicating liquor.

3. Any person under the age of twenty-one years who purchases or attempts to purchase, or has in his or her possession, any intoxicating liquor, or who is visibly in an intoxicated condition as defined in section 577.001, shall be deemed to have given consent to a chemical test or tests of the person's breath, blood, saliva, or urine for the purpose of determining the alcohol or drug content of the person's blood. The implied consent to submit to the chemical tests listed in this subsection shall be limited to not more than two such tests arising from the same arrest, incident, or charge. Chemical analysis of the person's breath, blood, saliva, or urine shall be performed according to methods approved by the state department of health and senior services by licensed medical personnel or by a person possessing a valid permit issued by the state department of health and senior services for this purpose. The state department of health and senior services shall approve satisfactory techniques, devices, equipment, or methods to be considered valid and shall establish standards to ascertain the qualifications and competence of individuals to conduct analyses and to issue permits which shall be subject to termination or revocation by the state department of health and senior services. The person tested may have a physician, or a qualified technician, chemist, registered nurse, or other qualified person at the choosing and expense of the person to be tested, administer a test in addition to any administered at the direction of a law enforcement officer. The failure or inability to obtain an additional test by a person shall not preclude the admission of evidence relating to the test taken at the direction of a law enforcement officer. Upon the request of the person who is tested, full information concerning the test shall be made available to such person. Full information is limited to the following:

- (1) The type of test administered and the procedures followed;
- (2) The time of the collection of the blood or breath sample or urine analyzed;
- (3) The numerical results of the test indicating the alcohol content of the blood and breath and urine;
- (4) The type and status of any permit which was held by the person who performed the test;
- (5) If the test was administered by means of a breath-testing instrument, the date of performance of the most recent required maintenance of such instrument.

Full information does not include manuals, schematics, or software of the instrument used to test the person or any other material that is not in the actual possession of the state. Additionally, full information does not include information in the possession of the manufacturer of the test instrument.

4. The provisions of this section shall not apply to a student who:

- (1) Is eighteen years of age or older;

(2) Is enrolled in an accredited college or university and is a student in a culinary course;

(3) Is required to taste, but not consume or imbibe, any beer, ale, porter, wine, or other similar malt or fermented beverage as part of the required curriculum; and

(4) Tastes a beverage under subdivision (3) of this subsection only for instructional purposes during classes that are part of the curriculum of the accredited college or university. The beverage must at all times remain in the possession and control of an authorized instructor of the college or university, who must be twenty-one years of age or older. Nothing in this subsection may be construed to allow a student under the age of twenty-one to receive any beer, ale, porter, wine, or other similar malt or fermented beverage unless the beverage is delivered as part of the student's required curriculum and the beverage is used only for instructional purposes during classes conducted as part of the curriculum.

(L. 1959 H.B. 248 § 1, A.L. 1994 S.B. 693, A.L. 2003 S.B. 298, A.L. 2005 S.B. 402, A.L. 2006 S.B. 725, A.L. 2009 H.B. 62, A.L. 2011 H.B. 111, A.L. 2014 S.B. 491)  
Effective 1-01-17

**311.326. Expungement of record permitted, when.** After a period of not less than one year after reaching the age of twenty-one a person who has pleaded guilty to or has been found guilty of violating section 311.325 for the first time, and who since such conviction has not been convicted of any other alcohol-related offense, may apply to the court in which he or she was sentenced for an order to expunge all official records of his or her arrest, plea, trial and conviction. No records shall be expunged if the person who has pleaded\* guilty to or has been found guilty of violating section 311.325 is licensed as a commercial motor vehicle driver or was operating a commercial motor vehicle as defined in section 302.700 at the time of the violation. If the court determines, upon review, that such person has not been convicted of any other alcohol-related offense at the time of the application for expungement, and the person has had no other alcohol-related enforcement contacts, as defined in section 302.525, the court shall enter an order of expungement. The effect of such an order shall be to restore such person to the status he or she occupied prior to such arrest, plea or conviction, as if such event had never happened. No person as to whom such order has been entered shall be held thereafter under any provision of any law to be guilty of perjury or otherwise giving a false statement by reason of his or her failure to recite or acknowledge such arrest, plea, trial, conviction or expungement in response to any inquiry made of him or her for any purpose whatsoever. A person shall be entitled to only one expungement pursuant to this section. Nothing contained in this section shall prevent courts or other state officials from maintaining such records as are necessary to ensure that an individual receives only one expungement pursuant to this section.

(L. 2005 S.B. 402, A.L. 2009 H.B. 62 merged with H.B. 683, A.L. 2009 H.B. 62 merged with H.B. 683)  
\*Word "plead" appears in original rolls.

### **311.328. Identification, acceptable forms.**

1. A valid and unexpired operator's or chauffeur's license issued under the provisions of section 302.177, or a valid and unexpired operator's or chauffeur's license issued under the laws of any state or territory of the United States to residents of those states or territories, or a valid and unexpired identification card or nondriver's license as provided for under section 302.181, or a valid and unexpired nondriver's license issued under the laws of any state or territory of the United States to residents of those states or territories, or a valid and unexpired identification card issued by any uniformed service of the United States, or a valid and unexpired passport shall be presented by the holder thereof upon request of any agent of the division of alcohol and tobacco control or any licensee or the servant, agent or employee thereof for the purpose of aiding the licensee or the servant, agent or employee to determine whether or not the person is at least twenty-one years of age when such person desires to purchase or consume



alcoholic beverages procured from a licensee. Upon such presentation the licensee or the servant, agent or employee thereof shall compare the photograph and physical characteristics noted on the license, identification card or passport with the physical characteristics of the person presenting the license, identification card or passport.

2. Upon proof by the licensee of full compliance with the provisions of this section, no penalty shall be imposed if the supervisor of the division of alcohol and tobacco control or the courts are satisfied that the licensee acted in good faith.

3. Any person who shall, without authorization from the department of revenue, reproduce, alter, modify, or misrepresent any chauffeur's license, motor vehicle operator's license or identification card shall be deemed guilty of a misdemeanor and upon conviction shall be subject to a fine of not more than one thousand dollars, and confinement for not more than one year, or by both such fine and imprisonment.

(L. 1965 p. 503 §§ 1 to 5, A.L. 1971 H.B. 365, A.L. 1972 S.B. 462, A.L. 1982 H.B. 986, A.L. 1987 S.B. 230, A.L. 1992 H.B. 1316, A.L. 1993 H.B. 63, A.L. 2003 S.B. 298, A.L. 2016 S.B. 919)

### **311.329. Reproduction or alteration of identification card, penalty.**

Any person who has in his possession a reproduced, modified or altered motor vehicle driver's license, nondriver's license issued by any uniformed service of the United States, or identification card established in section 302.181, RSMo, or any other such identification card which indicates that the person represented on the card is over twenty-one years of age, is guilty of a class A misdemeanor.

(L. 1993 S.B. 180 § 10)

### **311.330. Unauthorized liquors prohibited on premises licensed for sale by drink, exceptions.**

It shall be unlawful for the holder of any license authorized by this chapter, for the sale of any intoxicating liquor at retail by the drink for consumption on the premises where sold, to keep or secrete, or to allow any other person to keep or secrete in or upon the premises described in such license, any intoxicating liquor, other than the kind of liquor expressly authorized to be sold by such license, or any kind of liquor used exclusively as an ingredient in any foods being prepared and sold on the premises.

(RSMo 1939 § 4899, A.L. 1980 H.B. 1234, A.L. 1996 S.B. 933)

### **311.332. Wholesale price regulation, discrimination prohibited--delivery to certain organizations for nonresale purposes, allowed when--donation permitted, when.**

1. It shall be unlawful for any wholesaler licensed to sell intoxicating liquor and wine containing alcohol in excess of five percent by weight to persons duly licensed to sell such intoxicating liquor and wine at retail, to discriminate between retailers or in favor of or against any retailer or group of retailers, directly or indirectly, in price, in discounts for time of payment, or in discounts on quantity of merchandise sold, or to grant directly or indirectly any discount, rebate, free goods, allowance or other inducement, excepting a discount not in excess of one percent for quantity of liquor and wine, and a discount not in excess of one percent for payment on or before a certain date. The delivery of manufacturer rebate coupons by wholesalers to retailers shall not be a violation of this subsection.

2. Manufacturers or wholesalers shall be permitted to donate or deliver or cause to be delivered beer, wine, or brandy for nonresale purposes to any unlicensed person or any licensed retail dealer who is a charitable or religious organization as defined in section 313.005 or educational institution, at any location or licensed premises, provided, such beer, wine, or brandy is unrelated to the organization's or institution's licensed retail operation. A charge for admission to an

event or activity at which beer, wine, or brandy is available without separate charge shall not constitute resale for the purposes of this subsection. Wine used in religious ceremonies may be sold by wholesalers to a religious organization as defined in section 313.005. Any manufacturer or wholesaler providing nonresale items shall keep a record of any deliveries made pursuant to this subsection.

3. Manufacturers, wholesalers, retailers and unlicensed persons may donate wine in the original package to a charitable or religious organization as defined in section 313.005 or educational institution for the sole purpose of being auctioned by the organization or institution for fund-raising purposes, provided the auction takes place on a retail-licensed premises and all proceeds from the sale go into a fund of an organization or institution that is unrelated to any licensed retail operation.

(L. 1955 p. 40 § 311.331, A.L. 1985 H.B. 166, A.L. 1986 S.B. 444, A.L. 1987 H.B. 62 & 70, A.L. 1995 S.B. 43, A.L. 1997 H.B. 63, A.L. 2005 S.B. 262, A.L. 2009 H.B. 132)

(1966) This section does not make it unlawful for a wholesaler to refuse to sell its products to any particular retailer; it makes it unlawful only for a wholesaler to discriminate between retailers, (1) in price; (2) in discounts for time payments, and (3) in discounts for quantity of merchandise sold. It also makes it unlawful for a wholesaler to grant any rebate, free goods, allowances or other inducements, except as specifically authorized. *Giloti v. Hamm-Singer Corp.* (Mo.), 396 S.W.2d 711.

### **311.333. Wholesalers, returns of alcoholic beverages to, supervisor to regulate--wholesaler pricing to be made available to retailers, when.**

1. Any wholesaler licensed under this chapter to sell intoxicating liquors and wines may accept the return of any intoxicating liquor containing alcohol in excess of five percent by weight and wines as provided by rules and regulations promulgated by the supervisor of liquor control, pursuant to chapter 536.

2. Any wholesaler licensed to sell intoxicating liquor or wine containing alcohol in excess of five percent by weight to persons duly licensed to sell such intoxicating liquor and wine at retail shall make available to all such retailers, not later than five days prior to the first day of the month in which the pricing is to be effective, information regarding all products which shall be available for sale in the next month. Such information shall include the brand or trade name, capacity of individual packages, nature of contents, age and proof, the per-bottle and per-case price which shall be offered equally to all retailers, the number of bottles contained in each case, and the size thereof. The price provided to retailers under this section shall become effective on the first day of the next month and remain in effect until the last day of that month. Supplemental pricing information may be provided to retailers by wholesalers for items that were unintentionally left off a regular monthly item information listing or for new items after approval for sale in Missouri by the Missouri division of alcohol and tobacco control. A wholesaler shall be allowed to sell such items to retailers immediately upon production of such supplemental information.

(L. 1987 S.B. 150 § 1, A.L. 2009 H.B. 132)

### **311.334. Repealed L. 2009 H.B.132 & A**

(L. 1955 p. 40 § 311.332)

### **311.335. Liquor sales by wholesalers, delivery price--delayed shipment--sale of close-out merchandise permitted, when.**

1. Any wholesaler licensed to sell intoxicating liquor and wine containing alcohol in excess of five percent by weight shall deliver such intoxicating liquor and wine to a retailer at the price in effect for that calendar month in which the delivery occurs.

2. Such wholesaler licensed to sell intoxicating liquor and wine containing alcohol in excess of five percent by weight shall not take an order for delivery in a month subsequent to the month in which the order is taken, provided that during the last five business days of each

month, orders may be taken for delivery in the following month at the price in effect for that following month and provided, further, that for any order received within the last five business days of a month, the wholesaler may, with the consent of the retailer placing such order, deliver such order to the retailer within the first five business days of the month following the month in which the order was received by such wholesaler at the price in effect for the month in which the order was placed. Such order received within the last five business days of a month and delivered within the first five business days of the subsequent month shall be known as a "delayed shipment". A delayed shipment shall be deemed delivered on the last business day of the month in which the order was received for purposes of implementing and enforcing rules and regulations of the supervisor of alcohol and tobacco control relating to invoicing, discounts and ordinary commercial credit terms.

3. Any wholesaler licensed to sell intoxicating liquors and wines containing alcohol in excess of five percent by weight shall be allowed to offer for sale intoxicating liquors or wines containing alcohol in excess of five percent by weight to persons duly licensed to sell intoxicating liquors and wines at retail at prices which are below the wholesaler's cost only if such intoxicating liquors and wines are designated to be close-out merchandise. Wholesalers shall designate intoxicating liquors and wines containing alcohol in excess of five percent by weight to be close-out merchandise by identifying them such as close-out items when providing monthly pricing information to retailers as required in section 311.333. A wholesaler shall not purchase any intoxicating liquor or wine containing alcohol in excess of five percent by weight while such intoxicating liquor or wine is designated as close-out merchandise. Intoxicating liquors or wines containing alcohol in excess of five percent by weight that are designated as close-out merchandise shall be designated as close-out merchandise for not less than six consecutive months. After such time, a wholesaler may remove items from close-out designation by no longer identifying them as close-out items when providing monthly pricing information to retailers as required in section 311.333.

(L. 1998 H.B. 1705 § 1, A.L. 2009 H.B. 132)

### **311.336. Repealed L. 2009 H.B.132 § A**

(L. 1955 p. 40 § 311.333)

(1984) Liquor price posting laws, making wholesaler prices available for public display, does not itself constitute a violation of the Sherman Act. (Mo. banc) Wine and Spirits Specialty, Inc. v. Daniel, 666 S.W.2d 416.

**311.338. Violation of wholesale price regulations, misdemeanor-suspension of license.** Alleged violations of sections 311.332, 311.333, and 311.335 shall be reported to the supervisor of alcohol and tobacco control. Any person violating any provisions of sections 311.332, 311.333, and 311.335 shall be deemed guilty of a misdemeanor, and it shall be the duty of the supervisor of alcohol and tobacco control to suspend or revoke the license of any wholesaler violating any of the provisions of sections 311.332, 311.333, and 311.335.

(L. 1955 p. 40 § 311.334, A.L. 1985 H.B. 166, A.L. 2009 H.B. 132)

**311.340. Mixing liquor with drugs prohibited.** . No holder of a license under this chapter, or any other person, shall for any purpose whatsoever mix or permit or cause to be mixed with any intoxicating liquor kept for sale, sold or supplied by him as a beverage, any drug or form of methyl alcohol or impure form of alcohol.

(RSMo 1939 § 4882)

### **311.355. Manufacturer rebate coupons by wholesalers, regulation of.**

1. Manufacturers of intoxicating liquor other than beer or wine shall be permitted to offer consumer cash rebate coupons as provided in this subsection:

(1) Consumer cash rebate coupons may be published or advertised by

manufacturers in newspapers, magazines and other mass media;

(2) Coupon advertisements may list the amount of the cash rebate, but not the retail price of the intoxicating liquor after the rebate;

(3) Applications for cash rebates must be made directly from the consumer to the manufacturer, and not through retailers or wholesalers;

(4) Cash rebates must be made directly to consumers by manufacturers;

(5) Wholesalers and manufacturers may deliver cash rebate coupons to retailers, either for distribution at the point of sale or in connection with packaging.

2. Manufacturers of intoxicating liquor including beer and wine may offer coupons redeemable for nonalcoholic merchandise, except that such redeemable coupons must be made available without a purchase requirement to consumers at the point of sale, or by request through the mail, or at the retailer's cash register. Redeemable coupons may be published or advertised by manufacturers in newspapers, magazines and other mass media. Advertisements must state that no purchase is required to obtain the nonalcoholic merchandise and provide information on the procedure to obtain such merchandise. The retail value of the nonalcoholic merchandise shall not be stated in the advertisement or on the product. Wholesalers and manufacturers may deliver these redeemable coupons at the point of sale or in connection with packaging.

(L. 1986 S.B. 444 § 1, A.L. 1995 S.B. 43)

### **311.360. Misrepresentation of brand of liquor unlawful, penalty — exceptions.**

1. No person holding a license or permit shall sell malt liquor, or any other intoxicating liquor in this state, or shall offer for sale any such malt liquor, or other intoxicating liquor whatsoever, brewed, manufactured or distilled by one manufacturer, in substitution for, or with the representation that any such malt liquor or other intoxicating liquor, is the product of any other brewer, manufacturer or distiller. Whosoever shall violate the provisions of this section shall be deemed guilty of a misdemeanor.

2. Notwithstanding the provisions of subsection 1 of this section, no person holding a license or permit shall be deemed guilty of a misdemeanor for offering for sale, or for the sale of, wine or brandy so long as the manufacturer of the brandy or the wine manufacturer has provided the supervisor of alcohol and tobacco control with a copy of the certificate of label approval issued by the Alcohol and Tobacco Tax and Trade Bureau and, if necessary, has properly registered such label or name with the appropriate state agency..

(RSMo 1939 § 4911, A.L. 1996 S.B. 933, A.L. 2003 S.B. 298, A.L. 2009 H.B. 132)

### **311.370. Liquor in storage--report to supervisor, when--contents of report. .**

Every person, firm, partnership or corporation who shall keep or store any intoxicating liquor in any warehouse, or other storage place in this state, shall at the time such liquor is received and stored, notify the supervisor of liquor control and furnish to him a list of the kind and quantity of such intoxicating liquor, and the name and address of the owner thereof, and upon the withdrawal of said intoxicating liquor, or any part thereof, shall notify said supervisor and furnish to him the name and address of the person to whom such intoxicating liquor shall be delivered, the kind, quantity and amount thereof. A violation of any of the provisions of this section shall constitute a misdemeanor.

(RSMo 1939 § 4947)

**311.373. Beer required to be in possession of licensed wholesaler prior to sale at retail.** All malt beverages purchased for resale in this state prior to being resold at retail shall physically come into the posses-

sion of a licensed wholesaler and be unloaded in and distributed from the licensed wholesaler's warehouse in this state.

(L. 1993 S.B. 76)  
Effective 5-5-93

**311.380. Warehouse receipts—unlawful to sell or give away—penalty.**

It shall be unlawful to sell, offer for sale, or give away any warehouse receipt, or receipts, of intoxicating liquor without first securing permission, written or printed, of the supervisor of liquor control so to do. Any person violating any provision of this section shall be deemed guilty of a misdemeanor.

(RSMo 1939 § 4912)

**311.390. Duty of carriers to furnish certain information—penalty for failure—proceedings.**

1. Every railroad, express or transportation company, or other common carrier or contract hauler, shall, when requested, furnish to the supervisor of liquor control a duplicate bill of lading or receipt, showing the name of the consignor and consignee, date, place received, destination and quantity of intoxicating liquors, received by them for shipment to any point within this state. Upon failure to comply with the provisions herein, said railroad, express or transportation company, or other common carrier or contract hauler, shall forfeit and pay to the state of Missouri the sum of fifty dollars for each and every failure, to be recovered in any court of competent jurisdiction.

2. The supervisor of liquor control and the director of revenue are each hereby authorized and empowered to call upon the prosecuting attorneys of the respective counties or the circuit attorneys or the attorney general to bring any proceeding hereunder on the relation of the supervisor of liquor control or the director of revenue, as the case may be, to the use of the state of Missouri. The penalties collected shall be disposed of as provided by section 7, article IX, of the Constitution of Missouri, and section 171.010, RSMo.

(RSMo 1939 § 4931, A.L. 1945 p. 1043)

**311.400. Unclaimed shipments of liquor may be sold.**

Any railroad or express company doing business in this state shall have the right to sell unclaimed or refused shipments of intoxicating liquor in the same manner that such railroad or express company is or may be hereafter authorized to sell other unclaimed or refused property under the laws of this state, and no license or permit shall be required of such railroad or express company for such sale of such unclaimed or refused intoxicating liquor.

(RSMo 1939 § 4919)

**311.401. Repossessed liquor, sale by lending institution, when— no license required.**

Any lending institution doing business with any distiller, wholesaler, winemaker, brewer, or retailer in Missouri duly licensed under this chapter shall have the right to sell intoxicating liquor which such lending institution has repossessed to a retailer duly licensed under this chapter, with the approval of the supervisor of alcohol and tobacco control, provided such liquor was originally taken as collateral for a business loan. No license or permit shall be required for such sale, and such sale shall be limited to cases, kegs, or barrels of such liquor, and any leftover unopened containers. Such transaction shall be subject to the provisions of chapter 400, RSMo.

As used in this section, the term "lending institution" means any bank or trust company incorporated under the laws of this state or of the United States.

(L. 1983 S.B. 6, A.L. 2003 S.B. 298)

**311.410. Transportation of intoxicating liquor into or through state, when permitted.**

No person shall transport intoxicating liquor in, into or through the state of Missouri which has not been lawfully manufactured. No person shall transport intoxicating liquor in any quantity exceeding five gallons in or into the state of Missouri for delivery or use therein, unless the required inspection, labeling or gauging fee or license has been paid thereon and unless the bottle or other container in which the liquor is immediately contained has upon it stamps of the director of revenue of the state of Missouri evidencing payment of such fee; provided, however, that persons licensed by the supervisor of liquor control as manufacturers, blenders, or distillers of intoxicating liquor may import intoxicating liquor into and transport it into and within this state in bulk without having paid the fees above referred to and without first affixing the stamps to the containers of such liquor when it is to be used only in manufacturing, blending, or distilling intoxicating liquor, and subject to such regulations as the supervisor of liquor control may prescribe to safeguard the fees due the state of Missouri; and provided further, that persons licensed as manufacturers, blenders, distillers, and wholesalers whose licensed premises are within the state of Missouri may import into United States government bonded warehouses located in this state intoxicating liquors which have been bottled in United States government bond without first paying said fees and without first affixing the stamps to the containers of such liquor, subject to such regulations as the supervisor of liquor control may prescribe to safeguard the fees due this state when such liquor is withdrawn from said warehouse for sale or storage in this state outside of a United States internal revenue bonded warehouse; and provided further, that wholesalers licensed by the supervisor of liquor control whose licensed premises are within the state of Missouri may import into and transport into United States customs bonded warehouses in this state intoxicating liquors from foreign countries and from other United States customs bonded warehouses, located in any state of the United States, without first paying the fees above referred to and without first affixing the stamps to the containers of said liquor subject to such regulations as have been or may be prescribed by the supervisor of liquor control to safeguard the fees due the state of Missouri when such liquor is withdrawn from such United States customs bonded warehouse for sale or storage in this state outside of a United States customs bonded warehouse.

(RSMo 1939 § 4932, A.L. 1949 p. 320)

**311.420. Transporter's license—fee—bond—qualifications—certain carriers exempt.**

1. No person, except carriers regulated by the motor carrier and railroad safety division of the department of economic development under chapters 387, 389 and 390, RSMo, shall transport into, within, or through the state of Missouri any intoxicating liquors in quantities larger than five gallons unless such person holds a valid license or permit from the supervisor of alcohol and tobacco control of the state of Missouri to do so. For such license, there shall be paid to the director of revenue the sum of ten dollars per annum. Application for such license shall be made to the supervisor of alcohol and tobacco control of the state of Missouri and each applicant shall submit with his application a bond in the penal sum of one thousand dollars with sufficient surety to be approved by the supervisor of alcohol and tobacco control, conditioned that he will not violate any provisions of the liquor control laws of this state or any regulation promulgated under such liquor control laws, and any violation of such condition shall work a forfeiture of such bond to the state of Missouri. The license year shall end on June thirtieth, and the applicant shall pay as many twelfths as there are months, with each part of a month being counted as a month, remaining from the date of the license to the next succeeding July first. The supervisor of alcohol and tobacco control may issue single transaction licenses, for which there shall be paid to the director of revenue the sum of five dollars, and, if the value of the liquor to be transported exceeds one hundred dollars, the permit shall not be issued until the bond provided

for above in this section is given to the state. No such transporter's license shall be required of any person licensed by the supervisor of alcohol and tobacco control whose licensed premises are located in the state of Missouri, nor shall it be necessary to procure a license to transport liquor purchased from a retail liquor dealer duly licensed by the supervisor of alcohol and tobacco control of the state of Missouri. No license or permit shall be required to transport industrial alcohol.

2. The qualifications prescribed for the issuance of other licenses by the provisions of the liquor control law shall not apply to licenses issued under this section, but no license shall be issued to any person who is not of good moral character or who has been convicted since the ratification of the twenty-first amendment to the Constitution of the United States of the violation of any law applicable to the manufacture or sale of intoxicating liquor, nor to any person who has had a license from the supervisor of alcohol and tobacco control revoked. If applicant is a corporation, the managing officer thereof must possess the qualifications prescribed in this section.

3. Carriers licensed under this section or carriers exempt from holding a permit under this section shall not deliver wine to a resident of this state without obtaining an alcohol carrier license under section 311.185.

(L. 1949 p. 320 § 4932, A.L. 1985 H.B. 157, A.L. 2007 S.B. 299 & S.B. 616)  
Division of motor carrier and railroad safety abolished, duties and functions transferred to highways and transportation commission and department of transportation, 226.008  
(1951) Provisions of § 311.820 constitute a condition to the granting of a license hereunder and application and acceptance of a license under this section requires consent to the inspection of cargo by enforcement officers. Constitutional rights against search therefor are waived by licensee. State v. Ward, 361 Mo. 1236, 239 S.W.2d 313.

#### **311.430. Revocation of transporter's license.**

The supervisor of liquor control may revoke any transportation permit or license granted by him for failure of the licensee or permittee to comply with the conditions or requirements set forth in sections 311.410 to 313.450 and for violation of any section of the liquor control law of the state of Missouri.

(L. 1949 p. 320 § 4932)

#### **311.440. Transporter's license to be exhibited to officers, when.**

Every person transporting liquor within, into, or through the state of Missouri shall, upon demand, supply the supervisor of liquor control and any of his agents or any peace officer of the state of Missouri with evidence that a liquor transporter's license has been issued to him by the supervisor of liquor control of the state of Missouri.

(L. 1949 p. 320 § 4932)

#### **311.450. Bill of lading to accompany transported alcoholic liquors—contents—inspection.**

Any alcoholic liquors in excess of one hundred gallons being transported into, within, or through the state of Missouri shall be accompanied at all times during transportation by a bill of lading or other memorandum of shipment, showing an exact description of the alcoholic liquors being transported, the name and address of the consignor, the name and address of the consignee, the route to be traveled by such vehicle while in Missouri, and the vehicle transporting such liquors shall not vary from such route. Such bill of lading or memorandum shall be shown to the supervisor of liquor control or any peace officer of this state upon demand. The name of the consignor on any such bill of lading or other memorandum of shipment shall be the name of the true consignor of the alcoholic beverages being transported and such consignor shall only be a person who has the legal right to make such shipment. The name of the consignee on such bill of lading or memorandum of shipment shall be the true consignee of the alcoholic beverages being transported and who has previously authorized in writing the shipment of the alcoholic beverages being transported and who has a legal right to receive such beverages at the

point of destination shown on the bill of lading or other memorandum of shipment.

(L. 1949 p. 320 § 4932, A.L. 1987 S.B. 150)

#### **311.460. Violation of sections 311.410 to 311.450, penalty.**

Any person knowingly and willfully violating any provisions of sections 311.410 to 311.450 shall be deemed guilty of a felony and shall be punished upon conviction by imprisonment in the penitentiary not exceeding two years or by imprisonment in the county jail not exceeding one year or by a fine not exceeding one thousand dollars.

(L. 1949 p. 320 § 4932)

(1961) Information which failed to allege that the defendant knowingly and willfully transported illegally manufactured intoxicating liquor held insufficient notwithstanding it stated that defendant did "unlawfully and feloniously transport, etc." State v. Thomas (Mo.), 343 S.W.2d 56.

#### **311.462. (Repealed L. 2017 H.B. 115) (8/28/2017)**

#### **311.470. – (Repealed L. 2010 H.B. 1965)**

#### **311.480. Eating places, drinking of intoxicating liquor on premises, license required, when, hours—regulations—penalties—exceptions.**

1. It shall be unlawful for any person operating any premises where food, beverages or entertainment are sold or provided for compensation, who does not possess a license for the sale of intoxicating liquor, to permit the drinking or consumption of intoxicating liquor in the premises, without having a license as in this section provided.

2. Application for such license shall be made to the supervisor of alcohol and tobacco control on forms to be prescribed by him, describing the premises to be licensed and giving all other reasonable information required by the form. The license shall be issued upon the payment of the fee required in this section. A license shall be required for each separate premises and shall expire on the thirtieth day of June next succeeding the date of such license. The license fee shall be sixty dollars per year and the applicant shall pay five dollars for each month or part thereof remaining from the date of the license to the next succeeding first of July. Applications for renewals of licenses shall be filed on or before the first of May of each year.

3. The drinking or consumption of intoxicating liquor shall not be permitted in or upon the licensed premises by any person under twenty-one years of age, or by any other person between the hours of 1:30 a.m. and 6:00 a.m. on any weekday, and between the hours of 1:30 a.m. Sunday and 6:00 a.m. Monday. Licenses issued hereunder shall be conditioned upon the observance of the provisions of this section and the regulations promulgated thereunder governing the conduct of premises licensed for the sale of intoxicating liquor by the drink. The provision of this section regulating the drinking or consumption of intoxicating liquor between certain hours and on Sunday shall apply also to premises licensed under this chapter to sell intoxicating liquor by the drink. In any incorporated city having a population of more than twenty thousand inhabitants, the board of aldermen, city council, or other proper authorities of incorporated cities may, in addition to the license fee required in this section, require a license fee not exceeding three hundred dollars per annum, payable to the incorporated cities, and provide for the collection thereof; make and enforce ordinances regulating the hours of consumption of intoxicating liquors on premises licensed hereunder, not inconsistent with the other provisions of this law, and provide penalties for the violation thereof. No person shall be granted a license hereunder unless such person is of good moral character and a qualified legal voter and a taxpaying citizen of the county, town, city or village, nor shall any corporation be granted a license hereunder unless the managing officer of such corporation is of good moral character and a qualified legal voter and taxpaying citizen of the county, town, city or village.

4. Any premises operated in violation of the provisions of this section, or where intoxicating liquor is consumed in violation of this section, is hereby declared to be a public and common nuisance, and it shall be the duty of the supervisor of alcohol and tobacco control and of the prosecuting or circuit attorney of the city of St. Louis, and the prosecuting attorney of the county in which the premises are located, to enjoin such nuisance

5. Any person operating any premises, or any employee, agent, representative, partner, or associate of such person, who shall knowingly violate any of the provisions of this section, or any of the laws or regulations herein made applicable to the conduct of such premises, is guilty of a class A misdemeanor.

6. The supervisor of alcohol and tobacco control is hereby empowered to promulgate regulations necessary or reasonably designed to enforce or construe the provisions of this section, and is empowered to revoke or suspend any license issued hereunder, as provided in this chapter, for violation of this section or any of the laws or regulations herein made applicable to the conduct of premises licensed hereunder.

7. Nothing in this section shall be construed to prohibit the sale or delivery of any intoxicating liquor during any of the hours or on any of the days specified in this section by a wholesaler licensed under the provisions of section 311.180 to a person licensed to sell the intoxicating liquor at retail.

8. No intoxicating liquor may be served or sold on any premises used as a polling place on election day.

(L. 1945 p. 1032 § 4895a, A.L. 1978 H.B. 1634, A.L. 1979 S.B. 192, A.L. 1981 S.B. 126, A.L. 1987 S.B. 150, A.L. 2003 S.B. 298, A.L. 2009 H.B. 132)

#### **Section: 311.0481.1(Repealed L. 2012 H.B. 1498 § A)**

#### **311.482. Temporary permit for sale by drink may be issued to certain organizations, when, duration--collection of sales taxes, notice to director of revenue.**

1. Notwithstanding any other provision of this chapter, a permit for the sale of all kinds of intoxicating liquor, including intoxicating liquor in the original package, at retail by the drink for consumption on the premises of the licensee may be issued to any church, school, civic, service, fraternal, veteran, political, or charitable club or organization for the sale of such intoxicating liquor at a picnic, bazaar, fair, or similar gathering. The permit shall be issued only for the day or days named therein and it shall not authorize the sale of intoxicating liquor for more than seven days by any such club or organization.

2. To secure the permit, the applicant shall complete a form provided by the supervisor, but no applicant shall be required to furnish a personal photograph as part of the application. The applicant shall pay a fee of twenty-five dollars for such permit.

3. If the event will be held on a Sunday, the permit shall authorize the sale of intoxicating liquor on that day beginning at 11:00 a.m.

4. At the same time that an applicant applies for a permit under the provisions of this section, the applicant shall notify the director of revenue of the holding of the event and by such notification, by certified mail, shall accept responsibility for the collection and payment of any applicable sales tax. Any sales tax due shall be paid to the director of revenue within fifteen days after the close of the event, and failure to do so shall result in a liability of triple the amount of the tax due plus payment of the tax, and denial of any other permit for a period of three years. Under no circumstances shall a bond be required from the applicant.

5. No provision of law or rule or regulation of the supervisor shall be interpreted as preventing any wholesaler or distributor from providing customary storage, cooling or dispensing equipment for use by the permit holder at such picnic, bazaar, fair or similar gathering.

(L. 1987 S.B. 150 § 3, A.L. 1995 S.B. 43, A.L. 2009 H.B. 132, A.L. 2011 H.B. 101)

#### **311.483. Festivals, temporary permit to sell liquor by the drink, procedure.**

1. The supervisor of liquor control may issue a temporary permit to persons holding licenses to sell intoxicating liquor by the drink at retail for consumption on the premises pursuant to the provisions of this chapter who furnish provisions and service for use at a festival as defined in chapter 316. An application for a permit under this section shall be made at least five business days prior to the festival. The temporary permit shall be effective for a period not to exceed one hundred sixty-eight consecutive hours, and shall authorize the service of alcoholic beverages at such festival during the hours at which alcoholic beverages may lawfully be sold or served upon premises licensed to sell alcoholic beverages for on-premises consumption. For every permit issued pursuant to the provisions of this section, the permittee shall pay to the director of revenue the sum of ten dollars for each calendar day, or fraction thereof, for which the permit is issued.

2. All provisions of the liquor control law and the ordinances, rules, and regulations of the incorporated city, or the unincorporated area of any county, in which is located the premises in which such function, occasion, or event is held shall extend to such premises and shall be in force and enforceable during all the time that the permittee, its agents, servants, employees, or stock are in such premises. This temporary permit shall allow the sale of intoxicating liquor in the original package.

3. To assure and control product quality, wholesalers may, but shall not be required to, give a retailer credit for intoxicating liquor delivered and invoiced under the permit number, but not used, if the wholesaler removes the product within seventy-two hours of the expiration of the permit issued pursuant to this section.

4. No provision of law or rule or regulation of the supervisor shall be interpreted as preventing any wholesaler, retailers, or distributor from providing customary storage, cooling, or dispensing equipment for use at a festival.

(L. 2013 S.B. 121)

#### **311.485. Temporary location for liquor by the drink, caterers--permit and fee required--other laws applicable, exception.**

1. The supervisor of liquor control may issue a temporary permit to caterers and other persons holding licenses to sell intoxicating liquor by the drink at retail for consumption on the premises pursuant to the provisions of this chapter who furnish provisions and service for use at a particular function, occasion or event at a particular location other than the licensed premises, but not including a festival as defined in chapter 316. The temporary permit shall be effective for a period not to exceed one hundred sixty-eight consecutive hours, and shall authorize the service of alcoholic beverages at such function, occasion or event during the hours at which alcoholic beverages may lawfully be sold or served upon premises licensed to sell alcoholic beverages for on-premises consumption. For every permit issued pursuant to the provisions of this section, the permittee shall pay to the director of revenue the sum of ten dollars for each calendar day, or fraction thereof, for which the permit is issued.

2. Except as provided in subsection 3 of this section, all provisions of the liquor control law and the ordinances, rules and regulations of the incorporated city, or the unincorporated area of any county, in which is

located the premises in which such function, occasion or event is held shall extend to such premises and shall be in force and enforceable during all the time that the permittee, its agents, servants, employees, or stock are in such premises. This temporary permit shall allow the sale of intoxicating liquor in the original package.

3. Notwithstanding any other law to the contrary, any caterer who possesses a valid state and valid local liquor license may deliver alcoholic beverages in the course of his or her catering business. A caterer who possesses a valid state and valid local liquor license need not obtain a separate license for each city the caterer delivers in, so long as such city permits any caterer to deliver alcoholic beverages within the city.

4. To assure and control product quality, wholesalers may, but shall not be required to, give a retailer credit for intoxicating liquor with an alcohol content of less than five percent by weight delivered and invoiced under the catering permit number, but not used, if the wholesaler removes the product within seventy-two hours of the expiration of the catering permit issued pursuant to this section

(L. 1978 H.B. 978, A.L. 1987 S.B. 150, A.L. 1994 S.B. 474, A.L. 1995 S.B. 43, A.L. 1999 S.B. 81, A.L. 2000 H.B. 1631, A.L. 2005 S.B. 262, A.L. 2009 H.B. 132, A.L. 2011 H.B. 101, A.L. 2012 H.B. 1498)

**311.486. Special license, drink at retail for consumption on the premises, when — duration of license — fees.**

1. The supervisor of alcohol and tobacco control may issue a special license to caterers and other persons holding licenses to sell intoxicating liquor by the drink at retail for consumption on the premises pursuant to the provisions of this chapter who furnish provisions and service for use at a particular function, occasion, or event at a particular location other than the licensed premises, but not including a festival as defined in chapter 316. The special license shall be effective for a maximum of fifty days during any year, and shall authorize the service of alcoholic beverages at such function, occasion, or event during the hours at which alcoholic beverages may lawfully be sold or served upon premises licensed to sell alcoholic beverages for on-premises consumption. For every special license issued pursuant to the provisions of this subsection, the licensee shall pay to the director of revenue the sum of five hundred dollars a year payable at the same time and in the same manner as its other license fees.

2. The supervisor of alcohol and tobacco control may issue a special license to caterers and other persons holding licenses to sell intoxicating liquor by the drink at retail for consumption on the premises pursuant to the provisions of this chapter who furnish provisions and service for use at a particular function, occasion, or event at a particular location other than the licensed premises, but not including a festival as defined in chapter 316. The special license shall be effective for an unlimited number of functions during the year, and shall authorize the service of alcoholic beverages at such function, occasion, or event during the hours at which alcoholic beverages may lawfully be sold or served upon premises licensed to sell alcoholic beverages for on-premises consumption. For every special license issued pursuant to the provisions of this subsection, the licensee shall pay to the director of revenue the sum of one thousand dollars a year payable at the same time and in the same manner as its other license fees.

3. Caterers issued a special license pursuant to subsections 1 and 2 of this section shall report to the supervisor of alcohol and tobacco control the location of each function three business days in advance. The report of each function shall include permission from the property owner and city, description of the premises, and the date or dates the function will be held.

4. Except as provided in subsection 5 of this section, all provisions of the liquor control law and the ordinances, rules and regulations of the

incorporated city, or the unincorporated area of any county, in which is located the premises in which such function, occasion, or event is held shall extend to such premises and shall be in force and enforceable during all the time that the licensee, its agents, servants, employees, or stock are in such premises. Any special license issued under this section shall allow the sale of intoxicating liquor in the original package.

5. Notwithstanding any other law to the contrary, any caterer who possesses a valid state and valid local liquor license may deliver alcoholic beverages, in the course of his or her catering business. A caterer who possesses a valid state and valid local liquor license need not obtain a separate license for each city the caterer delivers in, so long as such city permits any caterer to deliver alcoholic beverages within the city.

6. To assure and control product quality, wholesalers may, but shall not be required to, give a retailer credit for intoxicating liquor with an alcohol content of less than five percent by weight delivered and invoiced under the catering license number, but not used, if the wholesaler removes the product within seventy-two hours of the expiration of the catering function.

(L. 2004 S.B. 1062, A.L. 2009 H.B. 132, A.L. 2011 H.B. 101, A.L. 2012 H.B. 1498)

**311.487. Annual license for beer and wine sales at state fair, issued when, fee—subject to laws of municipality.**

1. The supervisor of liquor control may issue to any person holding a concessionaire's contract, issued by the Missouri state fair, an annual license effective for the fourteen-day period when the fair is held and for any additional periods of time approved by the director of the fair which shall authorize the sale of malt liquor and Missouri-produced wines, for consumption on the premises where sold, on the Missouri state fairgrounds and, in the case of Missouri-produced wines, in the original package, on each day of the week within any period which has been approved by the director of the fair and during the hours at which such malt liquor or wine may lawfully be sold or served upon premises licensed to sell malt liquor or wine for on-premises consumption in the incorporated city in which the Missouri state fair is located. For every permit issued pursuant to the provisions of this section, the permittee shall pay to the director of revenue the sum of one hundred dollars for such license, except that for licenses issued to the concessionaire of the premises on the fairgrounds known as the grandstand and to the concessionaire of the premises on the fairgrounds known as the exhibition center, there shall be paid to the director of revenue the sum of three hundred dollars for such licenses.

2. All provisions of the liquor control law and the ordinances, rules and regulations of the incorporated city in which is located the Missouri state fair shall extend to such premises and shall be in force and enforceable during all the time that the permittee, its agents, servants, employees or stock are on such premises.

(L. 1993 S.B. 76, A.L. 1994 S.B. 474, A.L. 2009 H.B. 132)

**Section: 311.0489.1(Repealed L. 2014 H.B. 1298 Revision § A)**

**Inspection and Excises**

**311.490. Ingredients of beer—intoxicating malt liquor.**

No person, partnership or corporation engaged in the brewing, manufacture or sale of beer as defined, in this chapter, or other intoxicating malt liquor, shall use in the manufacture or brewing thereof, or shall sell any such beer or other intoxicating malt liquor which contains ingredients not in compliance with the following standards:

(1) Beer shall be brewed from malt or a malt substitute, which only

includes rice, grain of any kind, bean, glucose, sugar, and molasses. Honey, fruit, fruit juices, fruit concentrate, herbs, spices, and other food materials may be used as adjuncts in fermenting beer;

(2) Flavor and other nonbeverage ingredients containing alcohol may be used in producing beer, but may contribute to no more than forty-nine percent of the overall alcohol content of the finished beer. In the case of beer with an alcohol content of more than six percent by volume, no more than one and one-half percent of the volume of the beer may consist of alcohol derived from added flavors and other nonbeverage ingredients containing alcohol; and

(3) Beer, intoxicating malt liquor, and malt beverages, as defined in this section, shall not be subject to the requirements of subsection 1 of section 311.332 and sections 311.335 and 311.338.

(RSMo 1939 § 4921, A.L. 2006 S.B. 725, A.L. 2009 H.B. 132)

#### **311.500. Inspection of breweries—by whom.**

Every person, partnership, or corporation who shall erect or keep a brewery for the manufacture or brewing of beer, or other malt products within this state, for the purpose of offering the same for sale, shall cause the same to be inspected by the said supervisor of liquor control or his agents.

(RSMo 1939 § 4920)

#### **311.510. Inspection of malt liquors — duty of supervisor — product samples not required for approval.**

1. It shall be the duty of the supervisor of liquor control, or his or her designee, to cause to be inspected all beer, as defined in this chapter, or other intoxicating malt liquors, brewed, manufactured or sold in this state, and he or she shall determine whether such beer or other intoxicating malt liquor has been made from pure hops or the pure extract of hops, or of pure barley malt or other wholesome grains or cereals, or wholesome yeast, and pure water, and whether the package containing such beer or intoxicating malt liquor has been correctly labeled to show that the same has been made from wholesome ingredients.

2. Notwithstanding the provisions of subsection 1 of this section, the supervisor of liquor control, or his or her designee, shall not require product samples and shall not require the testing of product samples to determine alcohol content prior to granting approval for the sale of any such beer or other intoxicating malt liquor product in the state of Missouri if the supervisor of liquor control is provided with a copy of a certificate of label approval issued by the Alcohol and Tobacco Tax and Trade Bureau\*.

3. Notwithstanding the provisions of subsection 1 of this section, the supervisor of liquor control shall not require product samples prior to granting approval for the sale of any beer or other intoxicating malt liquors brewed, manufactured, and sold exclusively in this state if the supervisor of liquor control is provided a label. The supervisor of liquor control shall have sole authority to approve all labels for keg collars, bottles, and cans of such beer or other intoxicating malt liquor and any inspections to determine labeling compliance for such products shall be under the sole authority of the supervisor of liquor control, with no approval or inspection by the Alcohol and Tobacco Tax and Trade Bureau required.

(RSMo 1939 § 4922, A.L. 1945 p. 1043, A.L. 2000 H.B. 1631, A.L. 2017 H.B. 115)

\*Words "Alcohol and Tobacco Trade Bureau" appear in original rolls.

#### **311.520. Fee for inspecting and gauging malt liquors.**

As a charge for the inspection and gauging of all malt liquors, the

director of revenue shall collect the sum of one dollar and eighty-six cents per barrel.

(RSMo 1939 § 4925, A.L. 1945 p. 1043, A.L. 1961 p. 43, A.L. 1969 4th Ex. Sess. S.B. 2, A.L. 2009 H.B. 132)

#### **311.530. Inspection of beer—exported out of state.**

All beer as defined in this chapter, or other intoxicating malt liquors manufactured in the state and exported outside of the state for sale, shall be inspected as other liquors designated in this chapter, but said inspection shall be free of cost to the manufacturer.

(RSMo 1939 § 4927)

#### **311.540. Liquor inspection, labeling and gauging—requirements.**

1. Every person, persons or corporation who shall manufacture or distill spirituous liquors, including brandy, rum, whiskey, and gin, and other spirituous liquors, within this state, and wholesale or retail dealers or any other person who shall import such intoxicating liquors into this state, for the purpose of sale or offering the same for sale in this state, shall, before offering the same for sale, cause the same to be inspected and gauged by the supervisor of liquor control, or his or her designee. It shall be the duty of the supervisor of liquor control, or his or her designee, to inspect and gauge such character of intoxicating liquor referred to in this section and to ascertain whether the same is correctly labeled.

2. Notwithstanding the provisions of subsection 1 of this section, the supervisor of liquor control, or his or her designee, shall not require product samples and shall not require the testing of product samples to determine alcohol content prior to granting approval for the sale of any such spirituous liquors product in the state if the supervisor of liquor control, or his or her designee, is provided with a copy of a certificate of label approval issued by the Federal Bureau of Alcohol, Tobacco and Firearms which verifies the alcohol content of the product.

(RSMo 1939 § 4902, A.L. 1945 p. 1043, A.L. 2000 H.B. 1631, A.L. 2017 H.B. 115)

#### **311.550. Additional revenue charges—fines and penalties.**

1. In addition to all other licenses and charges, there shall be paid to and collected by the director of revenue charges as follows:

(1) For the privilege of selling in the state of Missouri spirituous liquors, including brandy, rum, whiskey, and gin, and other spirituous liquors and alcohol for beverage purposes, there shall be paid, and the director of revenue shall be entitled to receive, the sum of two dollars per gallon or fraction thereof;

(2) For the privilege of selling wines, the sum of thirty cents per gallon to the credit of the agriculture protection fund created under section 261.200 to be used solely for agricultural business development and marketing-related functions of the department of agriculture.

2. The person who shall first sell such liquor to any person in this state shall be liable for the payment, except that no refund of any tax collected and remitted to the director of revenue by a retail seller upon gross receipts from a sale of beer, liquor or wine subject to the charges contained in sections 311.520, 311.550 and 311.554 shall be claimed for refund under chapter 144 for any amount illegally or erroneously overcharged or over collected as a result of imposition of sales tax by the retail seller upon amounts representing the charges imposed under this chapter.

3. Any person who sells to any person within this state any intoxicating liquors mentioned in subdivision (1) of subsection 1, unless the charge hereby imposed is paid, is guilty of a felony and shall be punished by imprisonment by the state department of corrections for a term of not less than two years nor more than five years, or by

imprisonment in the county jail for a term of not less than one month nor more than one year, or by a fine of not less than fifty dollars nor more than one thousand dollars, or by both such fine and imprisonment.

4. It shall be unlawful for any person to remove the contents of any container containing any of the intoxicating liquors mentioned in subdivision (1) of subsection 1 without destroying such container, or to refill any such container, in whole or in part, with any of the liquors mentioned in subdivision (1) of subsection 1. Any person violating the provisions of this subsection shall be guilty of a misdemeanor.

5. Every manufacturer, out-state solicitor and wholesale dealer licensed under this chapter shall make a true duplicate invoice of the same, showing the date, amount and value of each class of such liquors shipped or delivered, and retain a duplicate thereof, subject to the use and inspection of the supervisor of liquor control and his representatives for two years.

6. Any person who shall sell in this state any intoxicating liquor without first having procured a license from the supervisor of liquor control authorizing him to sell such intoxicating liquor is guilty of a felony and upon conviction shall be punished by imprisonment by the state department of corrections for a term of not less than two years nor more than five years, or by imprisonment in the county jail for a term of not less than three months nor more than one year, or by a fine of not less than one hundred dollars nor more than one thousand dollars, or by both such fine and imprisonment.

(RSMo 1939 § 4900, A.L. 1945 p. 1043, A.L. 1961 p. 43, A.L. 1969 4th Ex. Sess. S.B. 2, A.L. 1994 S.B. 477, et al., A.L. 2010 S.B. 795)

Effective 12-31-94, and shall apply to all tax periods beginning on or after 1-1-95 (S.B. 477 § C, 1994)

#### **311.553. Monthly returns and payment of additional charges required—failure to pay, penalty.**

1. Payment of the charges provided by section 311.550 shall be made by the manufacturer, including one who blends or bottles intoxicating liquors, as to all intoxicating liquor produced or imported by the manufacturer for sale or use for beverage purposes within this state, by the out-state solicitor who imports into this state intoxicating liquor manufactured or produced outside of this state for sale or use for beverage purposes within this state and by the wholesale dealer who imports or receives intoxicating liquor manufactured or produced without the United States for sale or use for beverage purposes within this state. Each manufacturer, out-state solicitor and wholesale dealer on or before the fifteenth day of each calendar month shall file with the supervisor of liquor control, on forms prescribed and furnished by the supervisor, a written report in duplicate, under oath, in such form as is required by the supervisor to enable him to compute, and assure the accuracy of, the charges due on all sales and importations of intoxicating liquor occurring during the preceding month. Payment of the charges in the amount disclosed by the report by bank draft, money order, certified check or cashier's check payable to the department of revenue shall accompany the report to the supervisor of liquor control.

2. If the supervisor of liquor control deems it necessary in order to ensure the payment of the charges imposed by this law, he may require returns to be made more frequently than and covering periods of less than a month. The return shall contain such further information as the supervisor of liquor control may reasonably require. Each such manufacturer, out-state solicitor or wholesale dealer shall pay to the director of revenue, with the filing of such return, the tax imposed by this law, as so reported during the period covered by such return.

3. In case of failure to pay any charges as required under sections 311.520 and 311.550 on or before the date prescribed therefor, there shall be added to the amount of charge an amount equal to one percent per business day of the deficiency, not to exceed twenty-five percent of the deficiency, and in addition interest on the deficient charge and

penalty at the rate of one percent a month or fraction of a month from the date the deficient charge became due until paid.

(L. 1961 p. 43, A.L. 1989 S.B. 429, A.L. 1990 H.B. 1180)

#### **311.554. Privilege of selling wine, additional revenue charge—purpose—Missouri wine and grape fund created—limitation on use of revenue.**

1. In addition to the charges imposed by section 311.550, there shall be paid to and collected by the director of revenue for the privilege of selling wine, an additional charge of six cents per gallon or fraction thereof. The additional charge shall be paid and collected in the same manner and at the same time that the charges imposed by section 311.550 are paid and collected.

2. Until June 30, 2006, the revenue derived from the additional charge imposed by subsection 1 shall be deposited by the state treasurer to the credit of a separate account in the marketing development fund created by section 261.035. Beginning July 1, 2006, the revenue derived from such additional charge shall be deposited by the state treasurer in the Missouri wine and grape fund created by this section. Moneys to the credit of both the marketing development fund and the Missouri wine and grape fund shall be used only for market development in developing programs for growing, selling, and marketing of grapes and grape products grown in Missouri, including all necessary funding for the employment of experts in the fields of viticulture and enology as deemed necessary, and programs aimed at improving marketing of all varieties of grapes grown in Missouri; and shall be appropriated and used for no other purpose.

3. There is hereby created in the state treasury the "Missouri Wine and Grape Fund", which shall consist of money collected under this section. The state treasurer shall be custodian of the fund and shall approve disbursements from the fund to the department of agriculture for use solely by the Missouri wine and grape board created under section 262.820 in accordance with sections 30.170 and 30.180. Upon appropriation, money in the fund shall be used solely for the administration of this section. Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

4. In addition to the charges imposed by subsection 1 of this section and section 311.550, there shall be paid to and collected by the director of revenue for the privilege of selling wine an additional charge of six cents per gallon or fraction thereof. Until June 30, 2006, this additional six cents per gallon shall be deposited by the state treasurer to the credit of a separate account in the marketing development fund created by section 261.035. Beginning July 1, 2006, the revenue derived from such additional charge shall be deposited by the state treasurer in the Missouri wine and grape fund created in this section.

(L. 1983 S.B. 6 §§ 311.554, 2, A.L. 1989 S.B. 340, A.L. 1998 H.B. 1240, A.L. 2002 H.B. 1348, A.L. 2005 S.B. 355)

#### **311.555. Bond—failure to file—forfeiture.**

Every manufacturer, including one who blends or bottles intoxicating liquors, as to all intoxicating liquor produced or imported by the manufacturer for sale or use for beverage purposes within this state, and the out-state solicitor who imports into this state intoxicating liquor manufactured or produced outside of this state for sale or use for beverage purposes within this state, and the wholesale dealer who imports or receives intoxicating liquor manufactured or produced without the United States for sale or use for beverage purposes within this state and, therefore, shall be liable for payment for charges as



provided by section 311.553, shall also file with the supervisor of liquor control a bond in an amount not less than one thousand dollars and not to exceed one hundred thousand dollars on a form to be approved by, and with a surety satisfactory to, the supervisor of liquor control. Such bond shall be conditioned upon the manufacturer, out-state solicitor or wholesale dealer paying to the director of revenue all moneys becoming due from such manufacturer, out-state solicitor or wholesale dealer under this law. The supervisor of liquor control shall fix the penalty of the bond in each case, taking into consideration the amount of intoxicating liquor expected to be sold and used by such manufacturer, out-state solicitor or wholesale dealer, and the penalty fixed by the supervisor shall be sufficient in the supervisor's opinion, to protect the state of Missouri against failure to pay any amount due under this law, but the amount of the penalty fixed by the supervisor shall not exceed twice the amount of tax liability of a monthly return. In no event shall the amount of such penalty be less than one thousand dollars. Failure by any licensed manufacturer, out-state solicitor or wholesale dealer to keep a satisfactory bond in effect with the supervisor or to furnish additional bond to the supervisor when required hereunder by the supervisor to do so shall be grounds for the revocation or suspension of such manufacturer's, out-state solicitor's or wholesale dealer's license by the supervisor. If a manufacturer, out-state solicitor or wholesale dealer fails to pay any amount due under this law, his bond with the supervisor shall be deemed forfeited, and the department of revenue may institute a suit in its own name on such bond.

(L. 1961 p. 43 § 311.553, A.L. 1967 p. 426)

#### **311.557. License, revocation.**

After notice and opportunity for a hearing, the supervisor may revoke or suspend the license of any manufacturer, out-state solicitor or wholesale dealer who fails to comply with the provisions of sections 311.553 and 311.555. No new or renewal license shall be granted to a person who fails to comply with sections 311.553 and 311.555.

(L. 1961 p. 43 § 311.553)

#### **311.561. Charges, how paid and collected.**

Notwithstanding any provision in this chapter, all charges imposed by this chapter shall be paid and collected as provided in sections 311.520 and 311.553, and the affixing of stamps to the containers of intoxicating liquor shall not be required or sufficient to show the payment of the charges.

(L. 1961 p. 43)

#### **311.580. Possession of illegal or untaxed liquor prohibited—manufacturers, blenders and wholesalers excepted, when.**

1. No person shall possess intoxicating liquor in any quantity for any purpose in the state of Missouri which has not been lawfully manufactured.

2. No person shall possess intoxicating liquor within the state of Missouri for sale in any quantity, or for any other purpose in any quantity, in excess of five gallons, unless the required inspection, labeling or gauging fee or license has been paid thereon, except that persons licensed by the supervisor of liquor control as manufacturers, blenders, or distillers of intoxicating liquor may possess intoxicating liquor in this state in bulk without having paid the fees above referred to when it is to be used only in manufacturing, blending, or distilling intoxicating liquor, and subject to such regulations as the supervisor of liquor control may prescribe to safeguard the fees due the state of Missouri. Persons licensed as manufacturers, blenders, distillers, and wholesalers whose licensed premises are within the state of Missouri may possess in United States government bonded warehouses located in this state intoxicating liquors which have been bottled in United States government bond without first paying the fees subject to such regulations as the supervisor of liquor control may prescribe to

safeguard the fees due this state when the liquor is withdrawn from said warehouse for sale or storage in this state outside of a United States internal revenue bonded warehouse. Wholesalers licensed by the supervisor of liquor control whose licensed premises are within the state of Missouri may possess in United States customs bonded warehouses in this state intoxicating liquors without first paying the fees above referred to subject to regulations prescribed by the supervisor of liquor control to safeguard the fees due the state of Missouri when the liquor is withdrawn from a United States customs bonded warehouse for sale or storage in this state outside of a United States customs bonded warehouse.

(RSMo 1939 § 4884, A.L. 1945 p. 1043, A.L. 1949 p. 320, A.L. 1961 p. 43)

**311.600. Unlawful to sell unlabeled liquor—penalty.** Any person who shall sell any intoxicating liquors, as defined in this chapter, within this state, which have not been inspected and labeled according to the provisions of this law, shall be deemed guilty of a misdemeanor, and in addition thereto shall have his license or other authority, giving him the right to manufacture or sell said liquors in this state, revoked, and shall not again receive any such license or other authority for a period of two years thereafter. (RSMo 1939 § 4928, A.L. 1945 p. 1043, A.L. 1961 p. 43)

### **Administrative Law - License Suspension**

#### **311.610. Supervisor of liquor control—appointment, bond, duties, assistants—minimum compensation provided.**

1. For the purpose of carrying out the provisions of this chapter and the liquor control law, the governor, by and with the advice and consent of the senate, shall appoint some suitable person of good moral character over the age of thirty years, who has been a qualified elector in the state of Missouri for at least five years next before the date of his appointment, as supervisor of liquor control. The supervisor of liquor control shall serve at the pleasure and under the supervision and direction of the governor.

2. The supervisor of liquor control shall devote his entire time to the duties of his office and, with the approval of the governor, appoint and employ all agents, assistants, deputies, inspectors and employees necessary for the proper enforcement and administration of the provisions of the liquor control law whose salaries shall be fixed by the governor, but no salary shall be greater than that paid to employees in other state departments for similar work, except that no salary of an agent directly engaged in the enforcement of the liquor control law shall be less than eight thousand dollars a year. In addition to his salary, the supervisor of liquor control and each of the agents, assistants, deputies, inspectors and employees shall be reimbursed for all expenses necessarily incurred in the discharge of their duties. No expenses shall be allowed for sustenance to any supervisor, agent, assistant, deputy, inspector or employee while in the city or town of his residence.

3. Before entering upon the discharge of his duties, the supervisor of liquor control shall take and subscribe to an oath to support the Constitution of the United States and of this state, and faithfully demean himself in office, and shall also execute bond to the state of Missouri in the penal sum of ten thousand dollars, conditioned for the faithful performance of the duties of his office, which bond shall be approved by the governor and deposited with the secretary of state and kept in his office; the premiums of the bond shall be paid by the state out of funds appropriated for that purpose.

4. The supervisor of liquor control shall issue licenses for the manufacture and sale of ardent spirits, malt, vinous, fermented and every class of liquors used as beverages. The supervisor of liquor control shall keep a record of all intoxicating liquor manufactured, brewed or sold in this state by every brewery, distiller, manufacturer,

distributor or wholesaler, and make a complete report of the same to the governor at the end of each calendar year, or as soon thereafter as possible.

(RSMo 1939 § 4875, A.L. 1945 p. 1043, A.L. 1959 H.B. 104, A.L. 1972 H.B. 649, A.L. 2009 H.B. 132)

CROSS REFERENCES:

Appointment, nomination by director of department of public safety, RSMo 650.005

Supervisor of alcohol and tobacco control, position created, 311.615

### **311.615. Division of liquor control established, duties.**

There shall be a division within the department of public safety known as the "Division of Alcohol and Tobacco Control", which shall have as its chief executive officer the supervisor of alcohol and tobacco control appointed pursuant to section 311.610. All references to the division of liquor control and the supervisor of liquor control in the statutes shall mean the division of alcohol and tobacco control and supervisor of alcohol and tobacco control.

(L. 2003 S.B. 298, A.L. 2005 S.B. 262)

### **311.620. Qualification and requirements of agent, assistant, deputy, or inspector.**

1. No person shall be appointed as agent, assistant, deputy or inspector under the provisions of the liquor control law who shall have been convicted of or against whom any indictment may be pending for any offense; nor shall any person be appointed as such agent, assistant, deputy or inspector who is not of good character or who is not a citizen of the United States, and who is not or has not been a resident taxpaying citizen of the state for a period of three years previous to his appointment; or who is not able to read and write the English language or who does not possess ordinary physical strength and who is not able to pass such physical and mental examination as the majority of a board, consisting of the governor, lieutenant governor, attorney general, and the supervisor of liquor control may prescribe.

2. No agent, assistant, deputy or inspector so appointed shall hold any other commission or office, elective or appointive or accept any other employment compensation while he is an employee of the department of liquor control, except with the written permission of the supervisor of liquor control. No agent, assistant, deputy or inspector of the department of liquor control shall accept any reward or gift other than his regular salary and expenses as provided in this chapter. No agent, assistant, deputy or inspector of the department of liquor control shall perform any police duty connected with the conduct of any election, nor at any time or in any manner electioneer for or against any party ticket, or any candidate for nomination or office on any party ticket, nor for or against any proposition of any kind or nature to be voted upon at any election.

3. The agents, assistants, deputies and inspectors appointed under the provisions of section 311.610 shall before entering upon the discharge of their duties, each take and subscribe an oath to support the constitution and laws of the United States and the state of Missouri and to faithfully demean themselves in office in the form prescribed by section 11, article VII of the constitution of this state, and they shall each give bond to be approved by the supervisor of liquor control for faithful performance of the duties of their respective offices and to safely keep and account for all moneys and property received by them. This bond shall be in the sum of five thousand dollars, and the cost of furnishing all such bonds shall be paid by the state.

4. Any agent, assistant, deputy or inspector of the department of liquor control who shall violate the provisions of this chapter shall be immediately discharged.

(L. 1941 p. 409 § 4875a, A.L. 1945 p. 1040, A.L. 1995 S.B. 43)

### **311.630. Peace officers—authorized to make arrests for certain violations—method of selection—duty of supervisor.**

1. The supervisor of alcohol and tobacco control and employees to be selected and designated as peace officers by the supervisor of alcohol and tobacco control are hereby declared to be peace officers of the state of Missouri, with full power and authority to make arrests and searches and seizures only for violations of the provisions of this chapter relating to intoxicating liquors, and sections 407.924 to 407.934 relating to tobacco products, and to serve any process connected with the enforcement of such laws. The peace officers so designated shall have been previously appointed and qualified under the provisions of section 311.620 and shall be required to hold a valid peace officer license pursuant to chapter 590.

2. The supervisor of alcohol and tobacco control shall furnish such peace officers with credentials showing their authority and a special badge, which they shall carry on their person at all times while on duty. The names of the peace officers so designated shall be made a matter of public record in the office of the supervisor of alcohol and tobacco control.

3. All fees for the arrest and transportation of persons arrested and for the service of writs and process shall be the same as provided by law in criminal proceedings and shall be taxed as costs.

(L. 1943 p. 621 § 4876a, A.L. 1945 p. 1042, A.L. 1990 H.B. 1180, A.L. 1995 S.B. 43, A.L. 2003 S.B. 298, A.L. 2009 H.B. 132)

### **311.640. Supervisor—employees not permitted to have interest in liquor business.**

Neither the supervisor of liquor control nor any of his employees, shall have any interest, directly or indirectly, either proprietary or by means of any loan, mortgage or other lien, either for his own benefit or in a fiduciary capacity, or in any other manner in or on any premises where intoxicating liquor is distilled, brewed, manufactured or sold; nor shall he or they have any interest, directly or indirectly in any business, wholly or partially devoted to the distilling, brewing, manufacture or sale of intoxicating liquor; nor shall he or they, directly or indirectly, engage in dealing in or distilling, brewing, manufacturing or selling intoxicating liquor, either as owner, part owner, partner, member of a syndicate, shareholder of a corporation, agent or employee, either for his or their benefit or in a fiduciary capacity.

(RSMo 1939 § 4883)

### **311.650. Offices of supervisor.**

The principal office of the supervisor of liquor control shall be at the seat of government at Jefferson City, and the director of the division of facilities management, design and construction at the capitol shall provide offices for the liquor control department.

(RSMo 1939 § 4887, A.L. 2014 H.B. 1299 Revision)

### **311.660. Powers of supervisor—regulations—subpoenas.**

The supervisor of liquor control shall have the authority to suspend or revoke for cause all such licenses; and to make the following regulations, without limiting the generality of provisions empowering the supervisor of liquor control as in this chapter set forth as to the following matters, acts and things:

(1) Fix and determine the nature, form and capacity of all packages used for containing intoxicating liquor of any kind, to be kept or sold under this law;

(2) Prescribe an official seal and label and determine the manner in which such seal or label shall be attached to every package of intoxicating liquor sold under this law; this includes prescribing different

official seals or different labels for the different classes, varieties or brands of intoxicating liquor;

(3) Prescribe all forms, applications and licenses and such other forms as are necessary to carry out the provisions of this chapter, except that when a licensee substantially complies with all requirements for the renewal of a license by the date on which the application for renewal is due, such licensee shall be permitted at least an additional ten days from the date notice is sent that the application is deficient, in which to complete the application;

(4) Prescribe the terms and conditions of the licenses issued and granted under this law;

(5) Prescribe the nature of the proof to be furnished and conditions to be observed in the issuance of duplicate licenses, in lieu of those lost or destroyed;

(6) Establish rules and regulations for the conduct of the business carried on by each specific licensee under the license, and such rules and regulations if not obeyed by every licensee shall be grounds for the revocation or suspension of the license;

(7) The right to examine books, records and papers of each licensee and to hear and determine complaints against any licensee;

(8) To issue subpoenas and all necessary processes and require the production of papers, to administer oaths and to take testimony;

(9) Prescribe all forms of labels to be affixed to all packages containing intoxicating liquor of any kind; and

(10) To make such other rules and regulations as are necessary and feasible for carrying out the provisions of this chapter, as are not inconsistent with this law.

(RSMo 1939 § 4889, A.L. 1989 S.B. 429)

CROSS REFERENCE: Regulations to be filed in office of secretary of state, Const. Art. V § 22 (1964) This section and regulation of supervisor pursuant thereto forbidding any advertisement of intoxicating liquor which contains offer of coupon, premium, prize or rebate as inducement to purchase intoxicating liquor held valid. *Milgram Food Stores, Inc. v. Ketchum* (Mo.), 384 S.W.2d 510. (1975) For discussion of "reasonable rule regulation" as applied to this section, see *Brown-Foreman Distillers Corporation v. Stewart* (Mo.), 520 S.W.2d 1.

### **311.665. Sales and use tax must be paid to renew license — statement required.**

1. Before any license is renewed under the provisions of this chapter, the supervisor of liquor control shall require a statement from the director of revenue that the applicant has paid all sales and use taxes due, including all penalties and interest or does not owe any sales or use tax.

2. Within ten days from the issuance of a sales and use tax statement by the director of revenue, the licensee shall file with the supervisor of alcohol and tobacco control a copy of such sales and use tax statement. (L. 1984 H.B. 1533, et al. § 2, A.L. 2009 H.B. 132, A.L. 2016 S.B. 919)

### **311.670. Failure of supervisor and employees to perform duties.**

If the supervisor of liquor control or any of his employees or agents shall fail to perform any of the duties imposed upon them by this chapter, or shall in any manner violate any of the provisions thereof, he or they shall be deemed guilty of a misdemeanor and, if the supervisor of liquor control or any of his employees or agents shall fail to faithfully perform the duties enjoined upon them by this chapter, they may be removed from office by the governor.

(RSMo 1939 § 4929)

### **311.680. Disorderly place, warning, probation, suspension or revocation of license, when, notice--civil penalties--meet and confer opportunity, when.**

1. Whenever it shall be shown, or whenever the supervisor of liquor control has knowledge, that a person licensed hereunder has not at all times kept an orderly place or house, or has violated any of the provisions of this chapter, the supervisor of liquor control may warn, place on probation on such terms and conditions as the supervisor of liquor control deems appropriate for a period not to exceed twelve months, suspend or revoke the license of that person, but the person shall have ten days' notice of the application to warn, place on probation, suspend or revoke the person's license prior to the order of warning, probation, revocation or suspension issuing.

2. Any wholesaler licensed pursuant to this chapter in lieu of, or in addition to, the warning, probation, suspension or revocation authorized in subsection 1 of this section, may be assessed a civil penalty by the supervisor of liquor control of not less than one hundred dollars or more than twenty-five hundred dollars for each violation.

3. Any solicitor licensed pursuant to this chapter in lieu of the suspension or revocation authorized in subsection 1 of this section may be assessed a civil penalty or fine by the supervisor of liquor control of not less than one hundred dollars nor more than five thousand dollars for each violation.

4. Any retailer with less than five thousand occupant capacity licensed pursuant to this chapter in lieu of the suspension or revocation authorized by subsection 1 of this section may be assessed a civil penalty or fine by the supervisor of liquor control of not less than fifty dollars nor more than one thousand dollars for each violation.

5. Any retailer with five thousand or more occupant capacity licensed pursuant to this chapter in lieu of the suspension or revocation authorized by subsection 1 of this section, may be assessed a civil penalty or fine by the supervisor of liquor control of not less than fifty dollars nor more than five thousand dollars for each violation.

6. Any aggrieved person may appeal to the administrative hearing commission in accordance with section 311.691.

7. In order to encourage the early resolution of disputes between the supervisor of liquor control and licensees, the supervisor of liquor control, prior to issuing an order of warning, probation, revocation, suspension, or fine, shall provide the licensee with the opportunity to meet or to confer with the supervisor of liquor control, or his or her designee, concerning the alleged violations. At least ten days prior to such meeting or conference, the supervisor shall provide the licensee with notice of the time and place of such meeting or conference, and the supervisor of liquor control shall also provide the licensee with a written description of the specific conduct for which discipline is sought, a citation of the law or rules allegedly violated, and, upon request, copies of any violation report or any other documents which are the basis for such action. Any order of warning, probation, revocation, suspension, or fine shall be effective no sooner than thirty days from the date of such order.

(RSMo 1939 § 4905, A.L. 1978 S.B. 661, A.L. 1996 S.B. 933, A.L. 2002 S.B. 834, A.L. 2009 H.B. 132)

(1964) Evidence was sufficient for superintendent to find that licensee had sold intoxicating liquor to minor and it was not necessary that licensee's guilt be determined by court or jury or that supervisor overcome any presumption of innocence of licensee in order for superintendent to suspend licensee's license. *Crooms v. Ketchum* (Mo.), 379 S.W.2d 580.

### **311.685. Civil actions permitted, when.**

1. Any retail licensee selling intoxicating liquor under this chapter and aggrieved by official action of the supervisor affecting the licensee may bring a civil action against any person who is the proximate cause of such official action by the supervisor, if the violation occurred on or

about the premises of the retail licensee. If a judgment is entered in favor of the licensee, the court shall award the retail licensee civil damages up to an amount of five thousand dollars and shall award reasonable court costs and attorney fees.

2. No civil action shall be brought under this section against any employee of the supervisor of alcohol and tobacco control or any law enforcement officer.

(L. 2007 S.B. 299 & S.B. 616, A.L. 2009 H.B. 132)

### **311.691. Review by administrative hearing commission.**

Any person aggrieved by official action of the supervisor of liquor control affecting the licensed status of a person subject to the jurisdiction of the supervisor of liquor control, including the refusal to grant, the grant, the revocation, the suspension, the warning, the probation, the imposition of a civil penalty or the failure to renew a license, may seek a determination thereon by the administrative hearing commission pursuant to the provisions of section 621.045, RSMo, and it shall not be a condition to such determination that the person aggrieved seek a reconsideration, a rehearing, or exhaust any other procedure within the office of the supervisor of liquor control.

(L. 1978 S.B. 661, A.L. 1996 S.B. 933)

### **311.710. Additional complaints—by whom made—procedure.**

1. In addition to the penalties and proceedings for suspension or revocation of licenses provided for in this chapter, and without limiting them, proceedings for the suspension or revocation of any license authorizing the sale of intoxicating liquor at retail may be brought in the circuit court of any county in this state, or in the city of St. Louis, in which the licensed premises are located and such proceedings may be brought by the sheriff or any peace officer of that county or by any eight or more persons who are taxpaying citizens of the county or city for any of the following offenses:

(1) Selling, giving or otherwise supplying intoxicating liquor to a habitual drunkard or to any person who is under or apparently under the influence of intoxicating liquor;

(2) Knowingly permitting any prostitute, degenerate, or dissolute person to frequent the licensed premises;

(3) Permitting on the licensed premises any disorderly conduct, breach of the peace, or any lewd, immoral or improper entertainment, conduct or practices;

(4) Selling, offering for sale, possessing or knowingly permitting the consumption on the licensed premises of any kind of intoxicating liquors, the sale, possession or consumption of which is not authorized under his license;

(5) Selling, giving, or otherwise supplying intoxicating liquor to any person under the age of twenty-one years;

(6) Selling, giving or otherwise supplying intoxicating liquors between the hours of 12:00 midnight Saturday night and 12:00 midnight Sunday night.

2. Provided, that said taxpaying citizen shall submit in writing, under oath, by registered United States mail to the supervisor of liquor control a joint complaint, stating the name of the licensee, the name under which the licensee's business is conducted and the address of the licensed premises, setting out in general the character and nature of the offense or offenses charged, together with the names and addresses of

the witnesses by whom proof thereof is expected to be made; and provided, that after a period of thirty days after the mailing of such complaint to the supervisor of liquor control the person therein complained of shall not have been cited by the supervisor to appear and show cause why his license should not be suspended or revoked then they shall file with the circuit clerk of the county or city in which the premises are located a copy of the complaint on file with the supervisor of liquor control.

3. If, pursuant to the receipt of such complaint by the supervisor of liquor control, the licensee appears and shows cause why his license should not be suspended or revoked at a hearing held for that purpose by the supervisor and either the complainants or the licensee consider themselves aggrieved with the order of the supervisor then, after a request in writing by either the complainants or the licensee, the supervisor shall certify to the circuit clerk of the county or city in which the licensed premises are located a copy of the original complaint filed with him, together with a copy of the transcript of the evidence adduced at the hearing held by him. Such certification by the supervisor shall not act as a supersedeas of any order made by him.

4. Upon receipt of such complaint, whether from the complainant directly or from the supervisor of liquor control, the court shall set a date for an early hearing thereon and it shall be the duty of the circuit clerk to cause to be delivered by registered United States mail to the prosecuting attorney of the county or to the circuit attorney of the city of St. Louis and to the licensee copies of the complaint and he shall, at the same time, give notice of the time and place of the hearing. Such notice shall be delivered to the prosecuting attorney or to the circuit attorney and to the licensee at least fifteen days prior to the date of the hearing.

5. The complaint shall be heard by the court without a jury and if there has been a prior hearing thereon by the supervisor of liquor control then the case shall be heard de novo and both the complainants and the licensee may produce new and additional evidence material to the issues.

6. If the court shall find upon the hearing that the offense or offenses charged in the complaint have been established by the evidence, the court shall order the suspension or revocation of the license but, in so doing, shall take into consideration whatever order, if any, may have been made in the premises by the supervisor of liquor control. If the court finds that to revoke the license would be unduly severe, then the court may suspend the license for such period of time as the court deems proper.

7. The judgment of the court in no event shall be superseded or stayed during pendency of any appeal therefrom.

8. It shall be the duty of the prosecuting attorney or circuit attorney to prosecute diligently and without delay any such complaints coming to him by virtue of this section.

9. The jurisdiction herein conferred upon the circuit courts to hear and determine complaints for the suspension or revocation of licenses in the manner provided in this section shall not be exclusive and any authority conferred upon the supervisor of liquor control to revoke or suspend licenses shall remain in full force and effect, and the suspension or revocation of a license as provided in this section shall be in addition to and not in lieu of any other revocation or suspension provided by this chapter.

10. Costs accruing because of such hearings in the circuit court shall be taxed in the same manner as criminal costs.

(L. 1943 p. 617 § 4946a)

### **311.720. License automatically revoked upon conviction—exceptions.**

Conviction in any court of any violation of this chapter, or any felony violation of chapter 195, RSMo, in the course of business, shall have the effect of automatically revoking the license of the person convicted, and such revocation shall continue operative until said case is finally disposed of, and if the defendant is finally acquitted, he may apply for and receive a license hereunder, upon paying the regular license charge therefor, in the same manner as though he had never had a license hereunder; provided, however, that the provisions of this section shall not apply to violations of section 311.070, and violations of said section shall be punished only as therein provided.

(RSMo 1939 § 4909, A.L. 1941 p. 410, A.L. 1998 H.B. 1147, et al.)

### **311.722. Alcohol and tobacco control, minors not to be used in enforcement, exceptions—standards—minors immune from liability, when.**

1. The supervisor of alcohol and tobacco control shall not use minors to enforce the laws of this chapter unless the supervisor promulgates rules and regulations that establish standards for the use of minors. The standards shall include those in subsection 2 of this section.

2. The supervisor shall establish, by July 1, 2006, permissive standards for the use of minors in investigations by any state, county, municipal or other local law enforcement authority, and which shall, at a minimum, provide for the following:

(1) The minor shall be eighteen or nineteen years of age;

(2) The minor shall have a youthful appearance and the minor, if a male, shall not have facial hair or a receding hairline;

(3) The minor shall carry his or her own identification showing the minor's correct date of birth and shall, upon request, produce such identification to the seller of the intoxicating liquor at the licensed establishment;

(4) The minor shall answer truthfully any questions about his or her age and shall not remain silent when asked questions regarding his or her age, nor misrepresent anything in order to induce a sale of intoxicating liquor.

3. The supervisor of alcohol and tobacco control shall not participate with any state, county, municipal, or other local law enforcement agency, nor discipline any licensed establishment when any state, county, municipal, or other law enforcement agency chooses not to follow the supervisor's permissive standards.

4. Any minors used in investigations under this section shall be exempt from any violations under this chapter during the time they are under direct control of the state, county, municipal, or other law enforcement authorities.

(L. 2005 S.B. 402, A.L. 2009 H.B. 132)

### **311.730. Fees paid into general revenue fund and division of alcohol and tobacco control fund.**

1. Except as otherwise provided under subsection 2 of this section, all fees collected by the director of revenue as provided for in this chapter, including licenses, inspection and gauging fees, shall be paid into the state treasury, to the credit of the ordinary state revenue fund.

2. Seventy percent of all fees for licenses and permits collected under this chapter shall be paid to the credit of the division of alcohol and tobacco control fund established under section 311.735.

(RSMo 1939 § 4930, A.L. 1945 p. 1043, A.L. 2015 S.B. 373)

### **311.735. Division of alcohol and tobacco control fund created, use of moneys.**

1. There is hereby created in the state treasury the "Division of Alcohol and Tobacco Control Fund". The state treasurer shall be custodian of the fund. In accordance with sections 30.170 and 30.180, the state treasurer may approve disbursements. The fund shall be a dedicated fund and, upon appropriation, money in the fund shall be used solely by the division of alcohol and tobacco control for the administration of this chapter and sections 407.925 to 407.934, and any duties under such chapter and sections relating to licensing, training, technical assistance, and regulations.

2. Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund.

3. Appropriation of funds by the general assembly from the fund shall be used to support the division of alcohol and tobacco control for the purposes provided under subsection 1 of this section.

(L. 2015 S.B. 373)

## **Enforcement and Penalties**

### **311.740. Maintaining public nuisance—penalty.**

1. Any room, house, building, boat, vehicle, structure or place of any kind where intoxicating liquor is sold, manufactured, kept for sale or bartered, in violation of this law and all intoxicating liquors and all property kept and used in maintaining such a place and any still, doubler, worm, worm tub, mash tub, fermenting tub, vessel, fixture or other property of any kind or character used or fit for use in the production or manufacture of intoxicating liquor is hereby declared to be a public and common nuisance, and any person who maintains or assists in maintaining such public and common nuisance shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than one hundred dollars nor more than one thousand dollars or by imprisonment for not less than thirty days nor more than one year or both.

2. If a person has knowledge or reason to believe that his property, real or personal, vehicle, boat or structure is occupied or used for the manufacture, sale, storing, keeping or bartering of intoxicating liquor in violation of the provisions of this law and suffers the same to be so used, or maintains or keeps therein any still, doubler, worm, worm tub, mash tub, fermenting tub or fixture used or fit for use in the production or manufacture of intoxicating liquor illegally, after such knowledge or reason to believe, such property shall be subject to a lien for and may be sold to pay all fines and costs assessed against the occupant of such building or property for any violation of this law occurring after the passage thereof which said lien shall attach from time of filing of notice of commencement of the suit in the office where the records of the transfer of real estate are kept and any such lien may be established and enforced by legal action instituted for that purpose in any court having jurisdiction.

3. Such lien shall be released upon final judgment assessing no fines or costs or by paying the final judgment assessing fine and cost.

(RSMo 1939 § 4943)

(1954) Place where intoxicating liquor was sold and in which immoral men congregated and engaged in such cursing, fighting and quarreling as to disturb others was properly padlocked and its use enjoined. State ex rel. Davenport v. Henry (A.), 270 S.W.2d 88.

### **311.750. Action to enjoin nuisance—procedure.**

1. That an action to enjoin any nuisance defined in this chapter maybe

brought in the name of the state of Missouri by the attorney general of the state of Missouri, or by any prosecuting attorney or circuit attorney of any county or city of the state of Missouri. Such action shall be brought and tried as an action in equity and may be brought in any court having jurisdiction to hear and determine equity cases. If it is made to appear by affidavit, or otherwise to the satisfaction of the court, or judge in vacation, that such nuisance exists, a temporary writ of injunction shall forthwith issue restraining the defendant from conducting or maintaining any such nuisance until the conclusion of the trial. Where a temporary injunction is prayed for, the court may issue an order restraining the defendant and all other persons from removing or in any way interfering with the liquor or fixtures, or other things used in connection with the violation of this chapter constituting such nuisance. No bond shall be required in instituting such proceedings.

2. It shall not be necessary for the court to find the property involved was being lawfully used as aforesaid at the time of the hearing, but on finding that the material allegations of the petition are true, the court shall order that no liquors shall be manufactured, sold, bartered, stored or kept in any such room, house, building, boat, vehicle, structure or place, or any part thereof. And upon such judgment of the court ordering said nuisance to be abated, the court may order that the room, house, building, boat, vehicle, structure or place, shall not be occupied or used for such period as the court may determine, not to exceed the period of one year; provided, however, that the court may find that the owner of such property, real or personal, or boat, vehicle, room or other structure or place knew or should have known or had reason to believe that the said property, boat, vehicle, room or structure was used for the purpose of the violation of this law.

(RSMo 1939 § 4944)

(1942) Where evidence showed defendants sold intoxicating liquors in amusement resort and restaurant without license in violation of the law, court properly enjoined such violation, but that part of judgment which enjoined wife as one of owners by entirety from managing or working about premises was reversed. *State ex rel. Wallach v. Oehler (A.)*, 159 S.W.2d 313.

### **311.760. Penalty for violation of terms of injunction.**

Any person violating the terms of the injunction as provided for in this chapter, shall be punished for contempt by fine of not less than one hundred dollars, nor more than one thousand dollars, or by imprisonment in the county jail for not less than thirty days or more than one year; or by both such fine and imprisonment and the court shall have the power to enforce such injunction by such measures and means as in the judgment of the court may be necessary.

(RSMo 1939 § 4945)

### **311.770. Duty of prosecuting attorney—failure to perform.**

1. In case the existence of any place where intoxicating liquors are manufactured or sold in violation of law is disclosed in any criminal proceedings, it shall be the duty of the prosecuting attorney to proceed promptly to enforce the provisions of this law against such place as a nuisance.

2. In any affidavit, information or indictment for the violation of this law, separate offenses may be united in separate counts and the defendant may be tried on all of the separate offenses at one trial and the cumulative penalty for each offense may be imposed by the courts. It shall not be necessary in any affidavit, information or indictment to give the name of the purchaser or to include any defensive negative averments, but it shall be sufficient to state that the act complained of was then and there prohibited and unlawful.

3. Whenever any prosecuting attorney shall be unable or shall neglect, fail or refuse to enforce any of the provisions of this chapter, or for any reason whatsoever, the provisions of this chapter shall not be enforced in any county in this state, it shall be the duty of the attorney general of the state to enforce the same in such county, and for that purpose, he

may appoint as many assistants as he shall deem necessary, and he and his assistants shall be authorized to sign, verify and file, all such complaints, affidavits, petitions, informations, indictments and papers as the prosecuting attorney is authorized to sign, verify or file, and to do and perform any act that the prosecuting attorney might lawfully do or perform.

(RSMo 1939 § 4946)

### **311.780. List of complaints, revocations, suspensions to prosecuting attorneys—attorney general, when.**

1. The supervisor of liquor control shall, at least once each month, transmit a list of all complaints made to or by him against licensees for alleged violations of the liquor control law to the circuit attorney of the city of St. Louis and to the prosecuting attorney of every county in which said violations are alleged to have occurred, together with a list showing all revocations and suspensions of licenses within such county ordered by said supervisor of liquor control, together with a brief statement of the facts pertaining to each case, and it shall be the duty of the supervisor of liquor control at the time of transmitting each such list and statement to transmit to the attorney general a duplicate thereof for the information of the attorney general in carrying out and enforcing the provisions of the liquor control law.

2. It shall be the duty of the circuit attorney of the city of St. Louis and the prosecuting attorney of every county to transmit to the supervisor of liquor control, at least once in every three months, a written report of the action, if any, taken by such circuit or prosecuting attorney on each complaint contained on the lists so transmitted to him.

(RSMo 1939 § 4878, A.L. 1978 H.B. 1634) Effective 1-2-79

### **311.790. Prosecution of violations, by whom—fees and expenses.**

1. For the purpose of enforcing the provisions of this chapter and acts amendatory thereto, the prosecuting attorneys of the respective counties or the circuit attorneys, or at the request of the governor, the attorney general shall investigate and prosecute all violations of any provision of this law; and shall represent the supervisor of liquor control in any and all legal matters arising under this chapter. When requested by the governor, the attorney general, or his assistants shall in the enforcement of this law, have the power to sign indictments or informations and conduct prosecutions in any county or city within this state.

2. Whenever any tax, fee or other charge, as authorized by this chapter shall be due, suit may be instituted in any court of competent jurisdiction by the prosecuting attorney of the county, or at the request of the director of revenue, by the attorney general, in the name of the state at the relation of the director of revenue, to recover such tax, fee or other charge, and in any such suit all persons, associations or corporations interested may be made parties and service may be had on both residents and nonresidents in the same manner as provided by law in civil actions.

(RSMo 1939 § 4876, A.L. 1945 p. 1043)

**311.800. Attorney general may direct prosecuting attorneys to conduct prosecutions.** Whenever requested to carry out any of the duties as required by this chapter, the attorney general may, in his discretion, direct the prosecuting attorney of the county to conduct prosecutions and institute suits as required by this chapter.

(RSMo 1939 § 4877)

### **311.810. Search warrants, how issued—search and seizure—procedure—arrests—disposition of perishable products.**

1. The attorney general of the state of Missouri at the direction of the governor, or the prosecuting attorney of any county, or the supervisor of liquor control, or any assistant deputy or inspector appointed by the supervisor of liquor control, is hereby empowered to file in the circuit

court an application for a search warrant, which application shall be presented to a circuit or associate circuit judge and shall be by petition setting forth substantially the facts upon which the same is based, describing the place to be searched and the thing or things to be seized as nearly as may be, which petition shall be verified by the oath of the officer filing the same.

2. If it shall appear to the satisfaction of the court in which said petition is filed, either from the facts set forth in such petition, if supported by the affidavit of a competent witness to the facts set forth therein, or from evidence heard thereon, that there is probable cause to believe that intoxicating liquor is being unlawfully manufactured, sold, stored or kept in any building, structure, motor vehicle or other conveyance, or at any place described in such petition, within such county or transported, as by the law of this state defined, contrary to the provisions of any such law, or that thereat or therein is being used or kept any still, doubler, worm, worm tub, mash, mash tub, fermenting tub, vessel, fixture or equipment, or any part or parts thereof used or fit for use in the unlawful manufacture or production of intoxicating liquor, it shall be the duty of such court to issue or cause to be issued a search warrant thereon, directed to the sheriff or other officer authorized by law to serve such process in this state, which search warrant shall substantially recite the facts set forth in such petition, and it shall thereupon be the duty of the officer executing such search warrant forthwith to enter any such building, structure, place, motor vehicle or other conveyance, either in the daytime or nighttime, by force if necessary, and to remove therefrom any intoxicating liquor, malt, mash and all grain, grain products, fruit or fruit products found therein or thereat which have reached such a stage of fermentation as to be unfit for any use save in the unlawful manufacture of intoxicating liquor; and to seize and remove therefrom any intoxicating liquor, still, doubler, worm, worm tub, mash, mash tub, fermenting tub, vessel, fixture or equipment, or any part or parts thereof, used or fit for use in the unlawful manufacture of intoxicating liquor, and all grain, grain products, sugar syrup, hops, raisins and other fruit or fruit products used or fit for use in the unlawful manufacture of intoxicating liquor, which have not so fermented as to be useless for any other purpose than in the manufacture or production of intoxicating liquor, and to hold such property until all prosecutions arising out of such search and seizure shall be ended and determined. All intoxicating liquor unlawfully manufactured, stored, kept, sold, transported or otherwise disposed of, and the containers thereof and all equipment used or fit for use in the manufacture or production of the same, including all grain or other materials used, in the unlawful manufacture of intoxicating liquor, and which are found at or about any still or outfit for the unlawful making or manufacture of intoxicating liquor, are hereby declared contraband, and no right of property shall be or exist in any person or persons, firm, or corporation owning, furnishing or possessing any such property, liquor, material or equipment; but all such intoxicating liquors, property, articles and things, shall be sold upon an order of the court and in the manner provided in this chapter and the proceeds thereof shall be applied on the payment of any fine and costs lawfully assessed against any person or persons convicted of the unlawful manufacture, production, transportation, sale, gift, storing, or possession of intoxicating liquor, or for any other unlawful disposition thereof in any such building, structure, motor vehicle or other conveyance, at any such place or on the premises thereof, or applied on the payment of any fine or costs of any person so convicted of keeping therein or thereat any still, doubler, worm, worm tub, mash, mash tub, fermenting tub, vessel, fixture or equipment, or any part or parts thereof used or fit for use in the unlawful manufacture or production of intoxicating liquor, contrary to the provisions of this chapter, and all such property shall likewise be liable for the costs of making any search and seizure in case no person or persons shall be found in charge or control of any such property or claiming the same; provided, that all persons engaged in the work of unlawfully manufacturing intoxicating liquors in any building, structure, motor vehicle or other conveyance, or at any place as defined in this chapter, or of keeping, storing or selling intoxicating liquor in violation of this

law or of any of the laws of this state, or assisting in any way in such unlawful manufacture, production, keeping, storing, selling or transporting same, and all persons in possession or control, whether owners or not, of any still, doubler, worm, worm tub, mash, mash tub, fermenting tub, vessel, fixture or equipment used or fit for use in the unlawful manufacture or production of intoxicating liquor, or in possession or control of any grain, grain products, syrup, sugar, hops, raisins, or other fruit or fruit products, being used in the unlawful manufacture or unlawful production of intoxicating liquor, shall be deemed equally guilty of a violation of this law; provided further, that nothing in this chapter shall be so construed as to prevent any officer whose duty it is to make arrests from arresting, with or without warrant, any person or persons found violating any of the provisions of this law or from seizing or holding, as the case may be, any of the intoxicating liquor so found, including any liquor in process of fermentation or distillation, or any of the equipment, articles or materials, being in use or fit for use, in the process of unlawfully manufacturing intoxicating liquor as herein specified; however, in the case of a misdemeanor or a violation of a municipal or county ordinance, no physical arrest shall be made of any licensee who was not on the licensed premises at the time the violation occurred but a summons for later appearance may be issued. It is hereby expressly made the duty of the sheriffs and their deputies within their respective counties, and of marshals, chiefs of police and policemen in cities, towns and villages, and of all other officials whose duty it is or shall be to make arrests, to diligently suppress any violation of this law, and to this end such officers are hereby authorized and directed to arrest, with or without a warrant, any person or persons found violating any such provisions; and, if arrested without a warrant, then such officer shall immediately report the same to the prosecuting attorney of the county, and file the necessary complaint thereon. It shall be equally the duty of any officer to seize and hold without first obtaining a search warrant, any intoxicating liquor, still, doubler, worm, worm tub, mash, mash tub, fermenting tub, vessel, fixture or equipment, or any part or parts thereof, which he may find in use or fit for use in the unlawful manufacture of intoxicating liquor and to report same immediately to the prosecuting attorney of the county in which such liquor, articles and equipment may be found; provided further, that any officer executing a search warrant as provided in this chapter shall forthwith make his return thereon to the court issuing said search warrant of the manner and date of his execution thereof, showing what, if anything, was seized and held by such search, together with the name of the owner or owners, if known, of the things seized, and if not known, then the name or names of the person or persons appearing to be in charge or control thereof, and shall attach to said return as a part thereof an accurate list or inventory of the article and things so seized and in case of the seizure of any such articles, things or equipment, or intoxicating liquor which said officer may have found in use or fit for use without the aid of a search warrant as herein provided, he shall immediately file a list of the things so seized with the prosecuting attorney of the county in which the same were found, and shall hold the things so seized for disposition in accordance with the provisions of this law; and provided further, that all such articles, products and things declared in this section to be contraband, and which shall be seized by any officer and which shall be of such perishable nature as not to be susceptible of preservation until the determination of any prosecution arising out of seizure, shall be sold or otherwise disposed of as provided in this chapter by an order of the court issuing such search warrant, and the proceeds of such sale shall be held and applied as in this law providing.

(RSMo 1939 § 4916, A.L. 1945 p. 1043, A.L. 1978 H.B. 1634, A.L. 1987 H.B. 520)

**311.820. Search of vehicles for contraband liquor—use of evidence found.** The supervisor of liquor control of the state of Missouri and his agents and inspectors, members of the Missouri state highway patrol, and every sheriff and deputy sheriff in the state of Missouri may inspect and search any vehicle, with or without a search warrant, which he has probable cause to believe is being used in violation of the terms of this statute; provided, however, that any

evidence found by any such officer while inspecting or searching any vehicle pursuant to the provisions of sections 311.410 to 311.460 may be used in any prosecution for the violation of sections 311.410 to 311.460; in any proceeding seeking to have any property seized in such search declared contraband under the provisions of sections 311.410 to 311.460, 311.580 and 311.820 to 311.850, but any such evidence shall not be used in any other proceeding whatsoever, civil or criminal.

(L. 1949 p. 320 § 4932)

(1951) The provisions of this section constitute a condition to the granting of a license under § 311.420 and consequently, objections to search on constitutional grounds are waived by application for and acceptance of license. *State v. Ward*, 361 Mo. 1236, 239 S.W.2d 313.

(1953) If party to action for forfeiture does not establish that he is the owner of or has an interest in the whiskey he cannot question the legality of the search and seizure. *State v. Rodgers*, 364 Mo. 247, 260 S.W.2d 736.

### **311.830. Transported liquor and vehicle to be seized as contraband, when.**

Any intoxicating liquor being transported into, within, or through the state of Missouri in knowing and willful violation of the provisions of sections 311.410 to 311.460, 311.580 and 311.820 to 311.850, and the conveyance in which it is being transported shall be deemed contraband and shall be forfeited to the state of Missouri, and the supervisor of liquor control, or any of his agents and inspectors, and any peace officer of the state of Missouri shall seize any such liquor and the conveyance in which it is being transported as contraband.

(L. 1949 p. 320 § 4932)

### **311.840. Action to forfeit seized liquor as contraband—notice—intervention—judgment—appeal—sale of forfeited liquor—liability of officers—prosecutor's duties.**

1. Whenever any intoxicating liquor or other property having a value of more than fifty dollars is seized as contraband under any section of the liquor control law, the officer seizing such property, or the supervisor of liquor control, if the seizure is made by one of his agents, shall commence an action in the circuit court of the county in which such property is seized by filing a petition in the office of the clerk of said court in the name of the state of Missouri as plaintiff against the person from whom the property was seized as defendant, and there shall be a rebuttable presumption that said property is the property of the defendant from whom it was seized. Said petition shall describe the property seized and the circumstances of the seizure and shall pray the court to make an order, declaring said liquor or other property to be contraband and directing said seizing officer or the supervisor of liquor control, if the seizure was made by the supervisor or one of his agents, to sell said property at public or private sale, subject to the approval of the said circuit court. A summons shall be issued and process served on the defendant as in other civil suits. The defendant shall file his answer within thirty days after service of process upon him, whether such service is personal service, service by mail, or service by publication. After defendant's time for filing answer has expired, the court shall fix a day for hearing and said action shall be heard by the court without a jury and shall be conducted, except as otherwise in this chapter provided, as other cases under the code of civil procedure of the state of Missouri.

2. However, in addition to any other process provided by the civil code, the clerk of the circuit court shall cause to be published one time in some newspaper having a general circulation in the county where the action is pending, or if there be no newspaper of general circulation in the county, then in some newspaper of an adjoining county, a notice to all persons whom it may concern that said petition has been filed in said court, briefly describing the property seized, the time and circumstances of the seizure, the person from whom seized, and stating that any person claiming any interest in the property may, upon his own request, be made a party to the action and assert any claim he may have thereto within thirty days after the publication of said notice.

3. Any person claiming any interest in said property may intervene in said action within thirty days after the publication of said notice, setting

forth any claim he may have to said property.

4. The court shall render such judgment as to it shall seem meet and just, and if it shall appear that any person who has made claim to said property is the owner thereof and was ignorant of the illegal use thereof and such illegal use was without his connivance or consent, express or implied, or if the court shall find that said property was not being illegally used at the time of seizure, the court shall relieve said property from forfeiture and restore it to the rightful owner, or if it shall appear that the claimant is the holder of a bona fide lien against the property, and that he was ignorant of the illegal use thereof and that such use was without his connivance or consent, express or implied, the court shall, first, if the lien so established is equal to or more than the value of the property, order said property to be delivered to the lien or. Or, if the property is valued at more than the established lien and all costs of proceedings and sale, an order shall be made for the sale of said property by the seizing officer or by the supervisor of liquor control, if the seizure was made by him or one of his agents, at public or private sale, subject to the approval of the court, and out of the proceeds of such sale shall be paid: Storage, if any, the lien, the cost of the proceedings, and the residue, if any, shall be paid into the general revenue fund of the state of Missouri. If it shall be determined that no person, other than the defendant, has any interest in said property or that the person or persons having any interest in said property knew of or connived or gave consent, express or implied, to the illegal use thereof, and if it shall be found by the court that said property was, at the time it was seized, being illegally used and was contraband, as declared by any section of the liquor control law of the state of Missouri, the said property shall be declared to be forfeited to the state of Missouri, and the court shall order the officer who seized said property or the supervisor of liquor control, if the property was seized by one of his agents, to sell said property at public or private sale, subject to the approval of the court, and out of the proceeds of said sale shall be paid: The cost of storage, if any, cost of the proceedings of the case and the balance thereof shall be paid into the general revenue fund of the state of Missouri.

5. Appeals shall be allowed from the judgment of the circuit court as in other civil actions.

6. Whenever any liquor is sold under the provisions of this section, the officer selling it shall procure the proper excise stamps from the director of revenue and attach them to the container thereof, unless such liquor is already properly stamped, and he shall be reimbursed for the cost of said stamps out of the proceeds of the sale.

7. Under no circumstances shall the officer commencing said action on behalf of the state be liable for any costs or storage.

8. The supervisor of liquor control and his agents and any other officer authorized to make seizures of contraband under the liquor control law are each hereby authorized and empowered to call upon the prosecuting attorneys of the respective counties and the circuit attorney of the city of St. Louis and the attorney general of the state of Missouri to represent them in any proceeding hereunder, and thereafter it shall be the duty of such prosecuting or circuit attorney or the attorney general to proceed on behalf of the officer making such call according to the provisions of this chapter.

(L. 1949 p. 320 § 4917, A.L. 1978 H.B. 1634)

Effective 1-2-79

### **311.850. Action to replevin seized liquor, limitations, procedure—damages—appeals—sale of seized liquor—duties of prosecuting officials.**

1. Whenever any intoxicating liquor or other property of the value of fifty dollars or less is seized as contraband under any provision of the liquor control law by any officer, he shall give to the person from whom it is seized a receipt for said property. Any person claiming title to said property as owner or otherwise may at any time within sixty days of



such seizure file a suit in replevin against the officer seizing said property. Said suit shall be heard by the court without a jury and conducted as any other suit in replevin is conducted except as otherwise provided in this chapter, but if the court shall adjudge the return of the property to the defendant or to some third party, the officer making the seizure shall not be liable for any costs or damages, unless the court shall find that said seizure was made maliciously and that said officer did not have probable cause to believe said property was contraband. If the court shall find that- said seized property is contraband, he shall order it turned over to the supervisor of liquor control to be sold by him and the proceeds to be paid into the general revenue fund of the state.

2. Appeals shall be allowed from the judgment of the court as in other civil actions.

3. If no suit is filed within sixty days after the seizure of such property, the officer seizing said property shall turn it over to the supervisor of liquor control to be sold by him and the proceeds of the sale shall be paid into the general revenue fund of the state of Missouri. Whenever any liquor is sold by any officer which does not bear proper stamps of the director of revenue upon the containers, he shall, before selling it, obtain the proper excise stamps from the director of revenue and affix them to the containers of such liquor, and the cost thereof shall be returned to the officer out of the proceeds of the sale.

4. The supervisor of liquor control and his agents and any other officer authorized to make seizures of contraband property under the liquor control act are each hereby authorized and empowered to call upon the prosecuting attorneys of the respective counties and the circuit attorney of the city of St. Louis and the attorney general of the state of Missouri to represent them in any proceeding hereunder, and thereafter it shall be the duty of such prosecuting or circuit attorney or the attorney general to proceed on behalf of the officer making such call according to the provisions of this chapter.

(L. 1949 p. 320 § 4917a)

**311.860. Fees and mileage of officers executing search warrants.** All officers whose duty it is to issue or execute search warrants as provided for in this chapter, shall be entitled to the same fees and mileage as such officers are now or may hereafter be entitled to for similar services in the issuance and execution of criminal processes, the same to be taxed and collected as other criminal costs are taxed and collected.

(RSMo 1939 § 4918)

**311.868. Fines for violations by manufacturers and distillers to supersede other penalties.**

1. Notwithstanding the provisions of section 311.070, 311.550, or 311.600, or any other provision within this chapter containing a penalty provision, any person who shall manufacture or distill intoxicating liquor in this state shall be subject only to the penalty provision of subsection 2 of this section with regard only to its manufacturer's or distiller's license rather than the general or specific penalty provisions of the other provisions within this chapter, or any rule or regulation promulgated pursuant thereto. Such manufacturer or distiller shall not be subject to any other form of punishment with regard to its manufacturer's or distiller's license.

2. Any person as defined by subsection 1 of this section violating a provision of law contained in this chapter, or any rule or regulation promulgated pursuant thereto, shall be fined for the first offense, ten thousand dollars; for the second offense, twenty-five thousand dollars; and for the third and subsequent offenses, fifty thousand dollars.

(L. 1984 S.B. 619 § 1, A.L. 1984 S.B. 441 § 1)

**311.870. Execution on default by corporation in payment of fine.**

Whenever any corporation is convicted of any offense under this

chapter, and a pecuniary penalty is imposed or an order under this chapter requires payment of a sum of money by a corporation, the court, judge or magistrate, upon its conviction or order, after adjudging payment of such penalties with costs, may order and adjudge that in default of payment of such penalty forthwith such penalty or sum of money shall be levied by execution and sale of the goods and chattels of such corporation.

(RSMo 1939 § 4886, A.L. 1945 p. 1043)

**311.880. Violation a misdemeanor—penalty.** Any person violating any of the provisions of this chapter, except where some penalty is otherwise provided, shall upon conviction thereof be adjudged guilty of a misdemeanor and punished by a fine of not less than fifty dollars, nor more than one thousand dollars, or by imprisonment in the county jail for a term not exceeding one year, or by both such fine and jail sentence.

(RSMo 1939 § 4933)

## OUT-OF-STATE MANUFACTURERS

**311.915. Special permit for festivals — limit on shipment in state — excise taxes — duration of permit.**

A special permit shall be issued to an out-of-state manufacturer of intoxicating liquor who is not licensed in the state of Missouri for participation in festivals, bazaars, or similar events. Registration requirements under section 311.275 shall be waived for such event. The amount of intoxicating liquor shipped in the state under this permit shall not exceed two hundred gallons. Excise taxes shall be paid by the licensed manufacturer that holds a retail license organizing the event in the same manner as if it were produced or purchased by the manufacturer. A permit issued under this section by the division of alcohol and tobacco control shall be valid for no more than seventy-two hours. An applicant shall complete a form provided by the supervisor of alcohol and tobacco control and pay a fee of twenty-five dollars before a special permit shall be issued.

(L. 2016 S.B. 919)

## MOBILE APPLICATION

**\*311.950. Entertainment facilities, purchase through mobile applications — identification required — rulemaking authority.**

1. Notwithstanding any provision of law to the contrary, entertainment facilities including, but not limited to, arenas and stadiums used primarily for concerts, shows, and sporting events of any kind and entities selling concessions at such facilities that possess all necessary and valid licenses and permits to allow for the sale of alcoholic beverages shall not be prohibited from selling and delivering alcoholic beverages purchased through the use of mobile applications to individuals attending events on the premises of such facilities if the facilities are in compliance with all applicable state laws and regulations regarding the sale of alcoholic beverages.

2. For purposes of this section, the term “mobile application” shall mean a computer program or software designed to be used on hand-held mobile devices such as cellular phones and tablet computers.

3. Any employee of a facility or entity selling concessions at a facility who delivers an alcoholic beverage purchased through a mobile application to an individual shall require the individual to show a valid, government-issued identification document that includes the photograph and birth date of the individual, such as a driver's license, and shall verify that the individual is twenty-one years of age or older before the individual is allowed possession of the alcoholic beverage.

4. The division of alcohol and tobacco control may promulgate rules to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are

nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2016, shall be invalid and void.

(L. 2016 S.B. 994)

\*Effective 10-14-16, see § 21.250. S.B. 994 was vetoed July 1, 2016. The veto was overridden on September 14, 2016.



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**RULES  
*and*  
REGULATIONS  
*of the*  
SUPERVISOR  
*of*  
ALCOHOL AND TOBACCO CONTROL**

**11 CSR 70-1**

**11 CSR 70-2**

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## **Title 11—DEPARTMENT OF PUBLIC SAFETY**

### **Division 70—Division of Liquor Control**

#### **Chapter 1—General Organization**

##### **Regulation No. 70-1.010 Organization and Methods of Operation**

*PURPOSE: This rule describes the organization, methods of operation and procedures of the Division of Liquor Control.*

(1) The Department of Liquor Control was established under the Liquor Control Act passed by the Fifty-Seventh General Assembly in extra session, was signed by the governor on January 13, 1934 and became effective on that date. The Omnibus State Reorganization Act of 1974 created the Department of Public Safety and made the Department of Liquor Control a division of that department. The Intoxicating Liquor Law and the Nonintoxicating Beer Law are Chapters 311 and 312, RSMo 1986.

(2) The supervisor of liquor control is nominated by the director of the Department of Public Safety, appointed by the governor, with the advice and consent of the senate. The supervisor is vested with the exclusive power to issue and to revoke or suspend licenses for the sale of intoxicating liquor and nonintoxicating beer and with the power to make rules governing the conduct and method of operation of all licensees set out in section 311.660(10), RSMo 1986.

(A) The supervisor, with the approval of the director of the Department of Public Safety, is authorized to appoint and employ all agents, assistants, deputies and inspectors as are necessary for the

proper enforcement and administration of the Liquor Control Law and Nonintoxicating Beer Law.

(B) These appointees are prohibited from participating in any type of partisan political activity and are likewise prohibited from electioneering for or against any proposition to be voted on at any election. Appointees are required to meet minimum physical and mental requirements and receive training in the laws and their enforcement.

(3) All licenses issued by the Division of Liquor Control expire on the thirtieth day of June, next following the date that the license was issued. Correct license fees shall be paid before any license is issued.

(A) Cities and counties are permitted by law to license and regulate the sale of liquor.

(B) Cities are permitted to charge one and one-half (1 1/2) times the license fee charged by the state. Counties are permitted to charge a license fee equal to that charged by the state.

(4) The supervisor of liquor control, agents of the Division of Liquor Control, prosecuting attorneys, sheriffs, their deputies and police officers are charged with the duty of enforcing the Intoxicating Liquor Law and Nonintoxicating Beer Law. The Division of Liquor Control has no authority to punish or discipline persons not licensed. However, the division works closely with other law enforcement agencies and personnel in an effort to insure compliance with the liquor control laws.

(A) The Division of Liquor Control has found that most licensees attempt to operate their businesses in a proper and lawful manner. It is the purpose of the division to assist licensees and to eliminate the persistent violator. This is done by using the supervisor's power to suspend and revoke licenses and by seeking to grant licenses only to properly qualified persons.

(B) The supervisor of liquor control has the authority to suspend or revoke licenses. The alleged violator is given notice to appear before the supervisor to answer the charges made in writing against him/her. Any person aggrieved by official action of the supervisor of liquor control affecting the licensed status of a person subject to the jurisdiction of the supervisor of liquor control, including refusal to grant, the grant, the revocation, the suspension or the failure to renew a license, may seek a determination by the Administrative Hearing Commission, pursuant to the provisions of section 621.045, RSMo. Notice of appeal must be filed with the Administrative Hearing Commission within thirty (30) days after the decision of the supervisor of liquor control is placed in the United States mail or within thirty (30) days after the decision is delivered, whichever date is earlier.

## **Title 11—DEPARTMENT OF PUBLIC SAFETY**

### **Division 70—Division of Liquor Control**

#### **Chapter 2—Rules and Regulations**

##### **Regulation No. 70-2.010 Definitions**

*PURPOSE: This rule defines certain terms pertaining to and commonly used throughout Chapters 311 and 312, RSMo and the rules of the supervisor of liquor control.*

(1) **Domestic wine** is wine containing not in excess of fourteen percent (14%) of alcohol by weight and manufactured exclusively from grapes, berries and other fruits and vegetables grown in Missouri.

(2) **Intoxicating liquor** includes alcohol for beverage purposes, alcohol, spirituous, vinous or fermented, and all preparations or mixtures for beverage purposes containing in excess of one-half of one percent (.5%) of alcohol by volume except for nonintoxicating beer as defined in section 312.010, RSMo.

(3) **Malt liquor** is any beverage manufactured from pure hops or pure barley malt or wholesome grains or cereals and wholesome yeast and pure water, containing alcohol in excess of three and two-tenths percent (3.2%) by weight and not in excess of five percent (5%) by weight.

(4) **Nonintoxicating beer** is any beer manufactured from pure hops and pure extracts of hops and pure barley malt or other wholesome grains or cereals, and wholesome yeast and pure water and free from all harmful substances, preservations and adulterants and having an alcoholic content of more than one-half (1/2) of one percent (1%) by volume and not exceeding three and two-tenths percent (3.2%) by weight.

(5) **Ordinary Commercial Credit.**

(A) **Malt Beverages.** Ordinary commercial credit as used in the malt beverage and nonintoxicating beer industry shall be credit on such terms as shall require payment to be made by the retail licensee by the last day of the month for malt beverages or nonintoxicating beer which is delivered to the retail licensee on or after the first day of the month and up to and including the fifteenth day of the month and by the fifteenth day of the month next succeeding for malt beverages or nonintoxicating beer which is delivered to the retail licensee on or after the sixteenth day of the month and up to and including the last day of the month. No brewer or wholesaler shall sell or deliver to any retail licensee any malt beverage or nonintoxicating beer while the retail licensee owes the brewer or wholesaler for any malt beverage or nonintoxicating beer beyond the period of time as indicated in this subsection.

(B) **Intoxicating liquor other than malt beverage.** Ordinary commercial credit as used in the intoxicating liquor industry, other than the malt beverage industry, shall be credit on such terms as shall require payment to be made by the retail licensee within thirty (30) days after the delivery of any intoxicating liquor, other than malt beverage, to the retail licensee. No distiller, wholesaler or wine maker shall sell or deliver to any retail licensee any intoxicating liquor, other than malt beverage, while the licensee owes the distiller, wholesaler, or wine maker for any intoxicating liquor, other than malt beverage, beyond the period of time as indicated in this subsection.

(6) **Original package** refers to any package containing three (3) or more standard bottles or cans of malt liquor or nonintoxicating beer, to fifty (50) milliliters (1.7 ounces) or more of spirituous liquors and one hundred (100) milliliters (3.4 ounces) or more of vinous liquors in the manufacturer's original container. A standard bottle is any bottle or can containing twelve (12) ounces or less of malt liquor or nonintoxicating beer.

(7) The words **permit** and **license**, whenever used as nouns in Chapters 311 and 312, RSMo and in these regulations, shall have the same meaning.

(8) The words **permittee** and **licensee**, whenever used as nouns in Chapters 311 and 312, RSMo and in these regulations, shall have the same meaning.

(9) **Person** is any individual, association, joint stock company, syndicate, copartnership, corporation, receiver, conservator or other officer appointed by any state or federal court. Clubs are also included within the meaning of the term.

(10) **Premises** is the place where intoxicating liquor or nonintoxicat-

ing beer is sold and it may be one (1) room, a building comprising several rooms, or a building with adjacent or surrounding land such as a lot or garden.

(11) **Retailer** is a person holding a license to sell or to offer to sell intoxicating liquor or nonintoxicating beer to consumer only.

(12) **Spirituous liquor** includes brandy, rum, whiskey, gin and all other preparations or mixtures for beverage purposes of a like character and excludes all vinous, fermented or malt liquors.

(13) **Wholesaler** is a person holding a license to sell intoxicating liquor or nonintoxicating beer to wholesalers or to retailers.

(14) **Wholesale-solicitor** is a person holding a license to sell intoxicating liquor or nonintoxicating beer to wholesalers or to retailers.

(15) **Wine** is a vinous liquor produced by fermentation of juices of grapes, berries or other fruits or a preparation of certain vegetables by fermentation, and containing alcohol not in excess of twenty-two percent (22%) by volume.

**Regulation No. 70-2.020 Application for License**

*PURPOSE: This rule prescribes forms and applications and establishes procedure for the issuance of all intoxicating liquor and nonintoxicating beer licenses.*

(1) Applications for licenses must be addressed to the Supervisor of Alcohol and Tobacco Control, Jefferson City, MO 65101. A bank draft, United States or express money order, certified check or cashier's check made payable to the director of revenue of Missouri for the correct amount of the license fee shall accompany the application. Remittance for renewal of licenses filed on or before the first day of May of each year may be made by personal or business check. If such check is returned for insufficient funds, the division will notify the licensee, by regular mail to the licensee's address listed on the renewal application, of the return, and the licensee shall replace such check within fourteen (14) days from the date the division mails said notice, by remitting payment by certified check, cashier's check or other form of guaranteed funds. If the licensee has not replaced such check within said fourteen (14) days, then beginning with the fifteenth day, if such licensee's renewed license has been issued, such renewed license shall be suspended until the day following the day the licensee makes restitution for the insufficient funds check, or if such licensee's renewed license has not been issued, the renewed license shall not be issued until on or after the day following the day the licensee makes restitution for the-insufficient funds check.

(2) Application must be made on the forms prescribed and provided by the supervisor.

(3) Every applicant for a license must present his/her application to the agent in charge of the territory where the applicant wishes to do business.

(4) Licenses will be granted in the order in which the applications are received at the office of the supervisor in Jefferson City.

(5) No agent has any right or authority to authorize any applicant to exercise the privileges of the license applied for pending its issuance.

(6) Every applicant for a license to sell intoxicating liquor or nonintoxicating beer shall set out in his/her application a description of each and every federal tax stamp, designating the applicant or his/her premises as the person or place for dealing in intoxicating liquor or malt liquor in his/her possession or on the premises for which s/he seeks a license.

(7) If application is made by a partnership, the application shall set out the names and residences of all the partners, whether they be active or silent partners. All partners shall qualify under the laws of Missouri for the license. All partners shall sign the application.

(8) No license shall be granted to an applicant unless s/he makes full, true and complete answers to all questions in the application. If any applicant shall make any false answer to any question in the application or make any false statement of a material matter in his/her application, it shall be cause for suspension or revocation of any license issued pursuant to the application.

(9) Violation of any oath taken by a licensee in connection with his/her application for a license shall be deemed cause for suspension or revocation of the license where an oath is required, by any statute of Missouri or any regulation of the supervisor of liquor control, to be taken.

(10) If the Supervisor of Alcohol and Tobacco Control has reason to believe that an applicant has a criminal record and is not a person of good moral character, the supervisor may require that the applicant submit to being fingerprinted and fingerprints forwarded to the Department of Justice to ascertain if the applicant has been convicted of any crime.

(11) The surety on the bond of any licensee at any time may notify the Supervisor of Alcohol and Tobacco Control and the licensee that s/he desires after a date named, which shall be at least thirty (30) days after the receipt of notification by the licensee and the supervisor, to be relieved of liability on the bond. Upon receipt, the privileges of the principal under the license as is supported by the bond shall be terminated and cancelled on the date specified, unless supported by other sufficient bond(s), and the surety shall be relieved of liability on the bond for any default of the principal accruing on and after the date named.

(12) Every applicant for a license to sell intoxicating liquor or nonintoxicating beer at retail or for a license to permit consumption of liquor must present the following with his/her application:

(A) There must be attached securely to the application in the space designated, a recent photograph or clear snapshot of the individual(s) signing the application;

(B) If application is being made for an original package license an affidavit by the individual owner, all of the partners, if a partnership, or the managing officer of a corporation, if a corporation, must be submitted, stating the type of business applicant is engaged in and in connection with which the license is to be used and stating that the applicant has and at all times keeps in his/her store a stock of goods having a value according to invoices of at least one thousand dollars (\$1000), exclusive of fixtures and intoxicating liquors. A stock inventory shall accompany the application;

(C) Every applicant for a three and two-tenths percent (3.2%) beer license shall take and subscribe the oath required by section 312.070, RSMo and it shall be attached to and accompany the application;

(D) A recent photograph approximately the size of an ordinary postcard of the exterior of the premises sought to be licensed shall be attached to the application;

(E) Every applicant shall submit a copy of his/her tax receipt, for the year immediately preceding the date of the application, of the county, town, city or village where s/he resides in Missouri, or, if the applicant is a corporation, a copy of the tax receipt for the year immediately preceding the date of the application of the managing officer of the corporation of the county, town, city or village in Missouri where the managing officer resides or, in lieu of the tax receipt, an affidavit of the county or city assessor where the applicant resides, or, if applicant is a corporation where the managing officer of the corporation resides, stating that applicant or the managing officer of the corporation, if a corporation, owns property for which s/he is legally subject and liable to taxation in the county, town, city or village where applicant or, if a corporation, the managing officer of the applicant, resides in Missouri;

(F) The Supervisor of Alcohol and Tobacco Control shall accept either personal or corporate bonds.

1. If the bond is a personal bond, there must be attached to it an affidavit and certificate signed by either an abstract company or a title insurance company in the following form:

#### **Affidavit and Certificate**

I, \_\_\_\_\_ being duly sworn upon my oath, state and certify that I have examined the records pertaining to the property described as (give legal description as it appears on affidavit of sureties on bond) \_\_\_\_\_ that the present recorded owner (owners) is (are) \_\_\_\_\_ that the mortgage encumbrances against said property are \_\_\_\_\_ (give name of mortgagor and mortgagee, and amount of mortgage and where recorded) \_\_\_\_\_ that the assessed value for taxation of said property is that all taxes due and owing on said property are paid; that there are no unsatisfied judgments recorded against the above named owner (owners) of said property and that there are no pending bankruptcy proceedings in any of the divisions of the District Court of the United States for any district in Missouri, against or by any of the owners of said property.

Abstract Company or Title Insurance Company

By: \_\_\_\_\_ Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_

Notary Public My

commission expires: \_\_\_\_\_

2. If the bond is a personal bond, there also must be attached to it an affidavit by the surety (or sureties) in the following form:

I, \_\_\_\_\_ being duly sworn upon my oath, state that the following are all of the bonds, notes and other instruments of potential liability upon which I am or may become liable, (List in detail.) \_\_\_\_\_

\_\_\_\_\_  
(Surety or sureties, name)

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_

Notary Public My

commission expires: \_\_\_\_\_;

(G) Each applicant for a retail license to sell intoxicating liquor and nonintoxicating beer shall submit, with his/her application for a license, a copy of his/her retail sales license issued by the director of revenue and before any license is issued or renewed under the provisions of Chapter 311 or 312, RSMo, each applicant shall submit with his/her application a certificate of no sales or use tax due from the director of revenue; and

(H) If application is being made by a corporation, applicant shall present a copy of its franchise tax receipt, provided the corporation has been in existence for a period of sufficient length to have incurred liability for the tax.

(13) All applications for wholesale licenses must be made on blanks furnished by the Division of Liquor Control and all information and data set out as required on the blanks must be furnished at the time the application is submitted.

(14) No license will be issued to the spouse, child(ren), step-child(ren), parent(s), step-parent(s), son-in-law or daughter-in-law, employee or other person having any interest in the business of a licensee whose license has been revoked, for the privilege of doing business at the same location or in close proximity to the location of the establishment whose license was revoked.



(15) The Supervisor of Alcohol and Tobacco Control, at his or her discretion and for good cause, may issue a temporary license for up to ten days. A completed application with all required current documents and payment of license fees and any late charges must be in receipt of the Division of Alcohol and Tobacco Control before a temporary license will be considered by the Supervisor of Alcohol and Tobacco Control. An original signature of the Supervisor of Alcohol and Tobacco Control or his or her designee is required for this temporary license to be effective.

**Regulation No. 70-2.030**  
**Change of Facts, Posting, Transfer and**  
**Lost Licenses—Executors—Administrators**

*PURPOSE: This rule establishes procedure for reporting changes in status of license, transfer, death of licensee or managing officer, loss of, etc.*

(1) If during the period for which a license is granted there be any change of facts or information differing from that set forth in the original or in any renewal application on file with the supervisor of liquor control, written notice shall be given him/her within ten (10) days after the change.

(2) Before commencing or doing any business for the time for which a Missouri state license has been granted, the license shall be posted and at all times during the term of the license, kept displayed in a conspicuous place on the premises where the business is carried on, so that all persons visiting the premises may readily see the license.

(A) No licensee shall post the license or allow the license to be posted upon premises other than the premises licensed or upon premises where traffic in intoxicating liquor or nonintoxicating beer is being carried on by any person other than the licensee or knowingly deface, destroy or alter any the license in any respect.

(B) Every licensee, licensed by Missouri to sell intoxicating liquor or nonintoxicating beer, also shall keep displayed prominently at all times while his/her Missouri license is in effect, on his/her licensed premises, all federal tax stamps issued to him/her or to any other person designating him/her or the licensed premises as a person or place authorized by the federal government to deal in intoxicating liquors, and s/he shall submit all federal tax stamps to the supervisor of liquor control or any agent of the Division of Liquor Control, for examination, at any time s/he is requested by the supervisor or the agent to do so and permit the supervisor or agent to take a copy of the tax stamps. Every licensee also shall keep displayed prominently at all times on his/her licensed premises any city license designating him/her or his/her premises as a place licensed by the city to sell intoxicating liquors or nonintoxicating beer.

(3) A license, in the discretion of the supervisor of liquor control, may be transferred to any other premises or to any other part of the building containing the licensed premises, provided the premises sought to be licensed meets the requirements of the law. The supervisor first must approve the transfer and the application for permission to transfer shall be in writing and set forth—

(A) Name and address of licensee;

(B) Address and legal description of premises to which removal is sought, together with name and address of landlord;

(C) An affidavit by the licensee that s/he has not violated any provisions of the Liquor Control Act or Nonintoxicating Beer Law or any rule of the supervisor; and

(D) In addition, the licensee must file with the supervisor a consent of surety(ies), which consent if the bond was signed by private individuals, must be signed by those individuals in the same manner in which

the signatures appear on the bond itself and their signatures there to must be witnessed. If the bond was signed by a surety company, the consent must be signed by a duly authorized officer or attorney-in-fact of the company whose authority or power of attorney is on file in the Division of Liquor Control. The consent shall be so drawn that the surety(ies) remain liable on the bond of the licensee at the new location. Forms of the consent required by the regulation will be supplied by the supervisor upon request.

(4) Whenever a license shall be lost or destroyed without fault on the part of the licensee or his/her agents or employees, a duplicate license in lieu of the lost or destroyed license will be issued by the supervisor of liquor control without cost to the licensee. Application for a duplicate license shall be by affidavit of the licensee which shall be set forth—

(A) Date upon which license was lost or destroyed;

(B) Circumstances under which license was lost or destroyed; and

(C) Request that duplicate license be issued.

(5) Unless licensed by the supervisor of liquor control as such, no receiver, assignee, trustee, guardian, administrator or executor may sell any intoxicating liquor or nonintoxicating beer belonging to the estate over which s/he has control, except to a licensed wholesaler or retailer and s/he must first procure the consent of the supervisor of liquor control to sell the liquor or beer. Consent will not be given unless the supervisor has been provided with the following documents and information:

(A) A copy of the order of the court having jurisdiction over the estate authorizing the sale; and

(B) A joint affidavit signed by the receiver, assignee, trustee, guardian, administrator or executor and the purchaser, setting out an inventory of the stock, the price for which it is to be sold, the date of the contract of sale and the license number of the purchaser.

(6) In the event that a licensee's license has been lost, stolen, destroyed or a transfer to another place of business is desired, an agent or inspector, with the approval of the supervisor, may issue a special certificate which will allow the licensee to continue his/her business. In no event shall the special certificate continue in effect for more than ten (10) days from the date of issuance.

(7) Corporations licensed under the provisions of sections 311.060 and 312.040, RSMo must have a managing officer. In order to qualify, the managing officer must be a person in the corporation's employ, either as officer or an employee who is vested with the general control and superintendence of a whole, or a particular part of, the corporation's business at a particular place.

(A) In the event the office of the managing officer of a corporation becomes vacant, it will be necessary for the corporation to secure a managing officer within fifteen (15) days after the vacancy occurs, with a managing officer being qualified under the provisions of sections 311.060 and 312.040, RSMo.

**Regulation No. 70-2.040**  
**Manufacturers, Wholesalers and Distributors**

*PURPOSE: This rule defines credit and advertising items allowed to be provided to retailers by manufacturers, wholesalers and distributors.*

(1) Except as provided in section 311.070, RSMo, no retail licensee, directly or indirectly, shall accept any loans, equipment, money, credit or property of any kind, except ordinary commercial credit. Except as provided in section 311.070, RSMo, no person licensed to sell intoxicating liquor, or nonintoxicating beer at retail, shall permit any

distiller, wholesaler, wine maker, brewer or his/her or their employees, officers or agents, under any circumstances, directly or indirectly, to have any financial interest in his/her retail business for the sale of intoxicating liquor or nonintoxicating beer and s/he shall not accept, directly or indirectly, from a distiller, wholesaler, wine maker, brewer or its employees, officers or agents any loan, gift, equipment, money, credit or property of any kind except ordinary commercial credit for intoxicating liquor and nonintoxicating beer sold to the retailer, except that to properly preserve and serve draught beer only and to facilitate the delivery to the retailer s/he may accept, and brewers and wholesalers may lend, give, rent or sell and they may install or repair any of the following items or render to retail licensees any of the following services: beer coils and coil cleaning, sleeves and wrappings, box couplings and draft arms, beer faucets and tap markers, beer and air hose, taps, vents and washers, gauges and regulators, beer and air distributors, beer line insulation, coil flush hose, couplings and bucket pumps; portable coil boxes, air pumps, blankets or other coverings for temporary wrappings of barrels, coil box overflow pipes, tilting platforms, bumper boards, skids, cellar ladders and ramps, angle irons, ice box grates, floor runways; and damage caused by any beer delivery excluding normal wear and tear and a complete record of equipment furnished and installed and repairs and service made or rendered must be kept by the brewer or wholesalers furnishing, making or rendering same for a period of not less than one (1) year, and except, that to properly preserve and serve draught wine, wine tapping accessories, such as standards, faucets, rods, vents, taps, tap standards, hoses, washers, coupling, gas gauges, vent tongues, shanks and check valves may be sold to a retailer and installed in the retailer's establishment if the tapping accessories are sold at a price not less than the cost to the distiller, wine maker, brewer or wholesaler who initially purchased them and if the price is collected within thirty (30) days of the date of sale. Coil cleaning service may be furnished, given or sold to a retailer of wine or malt beverages.

(A) A sale by a licensed wholesaler to a licensed retailer of intoxicating liquor or nonintoxicating beer at a price which is less than the cost of the intoxicating liquor to the licensed wholesaler making the sale is presumed (subject to rebuttal as set out in this rule) to constitute a gift of money or property to the licensed retailer in violation of this regulation and sections 311.060 and 311.070, RSMo.

(B) The word cost as used in this regulation shall mean the actual invoice charge for the merchandise in question by the supplier of the merchandise to the wholesaler, plus the cost of transportation of the merchandise to the wholesaler and all federal and Missouri excise taxes and custom duties allocable to the merchandise.

(C) The presumption may be rebutted by reasonable proof that the fair wholesale market value of the intoxicating liquor or nonintoxicating beer in question is less than the cost of intoxicating liquor or nonintoxicating beer to the wholesaler selling the same.

(2) No distiller, wholesaler, wine maker, brewer or his/her or their employees, officers or agents, directly or indirectly, shall pay any fee rental or other consideration to any retail licensee for the use of any part of the licensed retail premises for advertising any brand name of distilled spirits, wine, malt liquor or nonintoxicating beer, or for the purpose of advertising the name, trademark or trade name of any marker of the trademark, provided, however, that nothing in this rule shall be construed as abrogating or altering in any manner or preventing the renewal of any existing contract or rental, whether oral or written, entered into before, for any part of any licensed retail premises.

(3) Except as provided in section 311.070, RSMo, no distiller, solicitor, wholesaler, wine maker, brewer or their employees, officers or agents, directly or indirectly, shall give or offer to give any financial assistance, gratuity or make or offer to make any gift of their products to any retail licensee.

#### **Regulation No. 70-2.050 Wholesalers' Conduct of Business**

*PURPOSE: This rule establishes guidelines for wholesalers regarding purchases, deliveries, sales and storage of products.*

(1) No wholesaler shall buy, obtain or accept any intoxicating liquors, wine or nonintoxicating beer from any person not holding a Missouri permit as a manufacturer or solicitor, provided that the wholesaler owning warehouse receipts may obtain the written permission from the supervisor of liquor control to receive intoxicating liquor from federal customs bonded warehouses or federal internal revenue bonded warehouses, as the case may be.

(2) No wholesale licensee shall deliver or cause any intoxicating liquors or nonintoxicating beer to be delivered to any licensee while the licensee is under suspension by the supervisor of liquor control.

(3) All wholesale licensees must keep and maintain a place for storage of merchandise, which must be designated in the license and must be separate and apart from any storage place used by others and with a separate entrance and street address.

(4) No wholesaler licensee shall deliver or cause intoxicating liquors, wine or nonintoxicating beer to be delivered to any premises unless there shall be displayed prominently in the premises a license issued by the supervisor of liquor control to the person purchasing the liquor, wine or beer, designating the purchaser as a person, licensed to sell on the premises the kind of liquor or beer s/he is about to deliver.

(5) Wholesalers licensed to sell intoxicating liquor or nonintoxicating beer shall make and keep duplicate invoices for all sales or deliveries of intoxicating liquor and nonintoxicating beer and the Missouri license number of every person to whom intoxicating liquor and nonintoxicating beer is sold or delivered by the licensees shall be written or stamped upon the duplicate invoices.

(6) Shipments by wholesalers or solicitors shall be made only to licensed dealers of this or other states. A bill of lading shall be secured from the carrier and kept on file for a period of two (2) years, so that shipments can be traced by the division's auditors or inspectors.

(7) No manufacturer who has acquired knowledge or been given notice that a wholesaler has been suspended shall make sales or deliver merchandise to the wholesaler during the period of time that the licensee is under suspension.

#### **Regulation No. 70-2.060 Manufacturers**

*PURPOSE: This rule establishes procedures for labeling, bottling and delivery of products. Editor's Note: The Secretary of State has determined that the publication of this rule in its entirety would be unduly cumbersome or expensive. The entire text of the material referenced has been filed with the Secretary of State. This material may be found at the Office of the Secretary of State or at the headquarters of the agency and is available to any interested person at a cost established by state law.*

(1) Regulations announced by the Federal Alcohol Administration relating to labeling of distilled spirits, wine and malt beverages, packaged for shipment in interstate commerce, are made a part of this regulation as though fully set forth and are promulgated with respect to Missouri; these regulations shall apply to distilled spirits, wine and malt beverages packaged purely for interstate shipment insofar as the regulations are not contrary to or inconsistent with the laws of Missouri. In addition to the regulations, the label of every container of spirituous liquor, wine, malt liquor or nonintoxicating beer, unless already required by the regulations, shall set forth the name and address of the manufacturer, brewer, distiller, rectifier or producer of the spirituous liquor, wine, malt liquor or nonintoxicating beer as the case may be; provided that if the name of the brewer or manufacturer of malt liquor which appears on the label is not the owner of the facility where the malt liquor was brewed or manufactured, then the name, owner and

address of the facility shall also be set forth on the label.

(2) Every manufacturer or brewer manufacturing or brewing any nonintoxicating beer in this state and every manufacturer, brewer or wholesaler outside of the state, shipping any intoxicating beer into this state, shall cause to be printed upon the large label around and upon the body of each bottle of nonintoxicating beer, one of the following inscriptions: "Alcoholic content not in excess of three and two-tenths percent (3.2%) by weight," or "Alcoholic content not in excess of four percent (4%) by volume," or in lieu of those inscriptions, shall cause the inscription to be printed on the crown of the bottle and in addition to those inscriptions on a separate label from the manufacturer's label previously described, which label shall be placed around the neck or body of the bottle in a secure manner so that it will adhere to the bottle after being iced so that it shall be on the bottle when the beer is served to the consumer. There shall be printed, stamped or embossed upon every can containing nonintoxicating beer, the statement, "Three and two-tenths percent (3.2%) by weight" or "Alcoholic content not in excess of three and two-tenths percent (3.2%) by weight."

(3) All licensees engaged in bottling intoxicating liquor and alcoholic beverages, before filling any bottle, shall cause the same to be sterilized by one (1) of the following methods:

(A) All new bottles, unless sterile, shall be sterilized or cleaned by thoroughly rinsing with clean sterile water or by blowing or vacuuming with proper machines for sterilization or cleansing.

(B) All used bottles shall be sterilized by soaking in a hot caustic solution which shall contain not less than three percent (3%) caustic or alkali expressed in terms of sodium hydrate. The period of time in the solution shall be governed by the temperature and strength of the solution. Then the bottles must be rinsed thoroughly in clean sterile water until free from alkali or sodium hydrate.

(4) All manufacturers and wholesalers at all times shall keep their premises and equipment in a clean and sanitary condition.

(5) No malt liquor or nonintoxicating beer in bottles, cans or jugs shall be brought in or transported within this state for the purpose of sale to any licensee or be sold to any licensee in other than cases the sizes of which have been approved by the Bureau of Alcohol, Tobacco and Firearms.

(6) Malt liquor and nonintoxicating beer may be brought in or transported into this state for the purpose of sale to any licensee or be sold to any licensee also in barrels or kegs the sizes of which have been approved by the Bureau of Alcohol, Tobacco and Firearms.

(7) For the purpose of the regulation the following definitions apply:

(A) A "facility which brews or manufactures malt liquor" is defined as a brewery or manufacturing plant premises licensed by either, or both, the state within which it is located and/or the United States Federal Alcohol Administration; and

(B) An "owner" of a facility which brews or manufactures malt liquor is defined as a person, corporation, limited liability company, partnership or other legal business entity, who holds the entire facility in fee simple, or has a leasehold interest for a term of years in that entire facility, and is the person or business entity licensed for that entire facility by either or both, the state within which the facility is located and/or the United States Federal Alcohol Administration.

#### **Regulation No. 70-2.070 Tax on Spirituous Liquor and Wine**

*PURPOSE: This rule establishes tax amounts on various container sizes of wine and spirituous liquor, defines contraband and prohibits possession of untaxed liquor or wine.*

(1) No wine or spirituous liquor shall be brought in or transported

within this state for the purpose of sale to any licensee or be sold to any licensee in other than containers the sizes of which have been approved by the Bureau of Alcohol, Tobacco and Firearms.

(2) The tax on spirituous liquor shall be two dollars (\$2) per gallon and the tax on wine shall be thirty-six cents (\$.36) per gallon.

(3) Any spirituous liquor or wine shipped into, sold or offered for sale in this state without payment of the proper amount of taxes due shall be deemed to be contraband and by the supervisor or his/her agents shall be seized and disposed of as contraband.

(4) No person other than a licensed distiller, rectifier or wine manufacturer shall possess in this state any spirituous liquor or wines without the proper amount of taxes having been paid, except as provided in section 311.580, RSMo.

#### **Regulation No. 70-2.080 Malt Liquor and Nonintoxicating Beer Tax**

*PURPOSE: This rule establishes tax amounts on various container sizes of malt beverages and nonintoxicating beer, defines contraband and prohibits possession of untaxed cereal malt beverages.*

(1) The tax on malt liquor and nonintoxicating beer shall be one dollar eighty-six cents (\$1.86) per barrel or six cents (\$.06) per gallon.

(2) No sale or delivery of malt liquor or nonintoxicating beer shall be made in this state without the proper amount of Missouri tax being paid.

(3) Any malt liquor or nonintoxicating beer shipped into, sold or offered for sale in this state without paying the proper amount of tax, shall be deemed to be contraband and shall be, seized and disposed of as contraband by the supervisor or his/her agents.

#### **Regulation No. 70-2.090 Reporting Distillers, Rectifiers, Wine Manufacturers and Wholesalers**

*PURPOSE: This rule establishes format for reports of shipment and payment of tax on liquor and wine.*

(1) Every distiller, rectifier and wine manufacturer licensed to sell spirituous liquor and wine in this state shall file with the supervisor of liquor control a report listing all Missouri wholesale licensees with whom it transacts business and attach to the report a copy of any contract or agreement between the distiller, rectifier or wine manufacturer and wholesale licensee. Any change in the listing shall be reported in writing within ten (10) days of the effective date of the change. A copy of any change in an existing contract or agreement and a copy of any new contract or agreement shall be submitted at the time of execution thereof. If there is no contract or agreement with respect to any wholesaler, the distiller, rectifier or wine manufacturer shall so indicate in its report. These contracts or agreements are for the information of the supervisor only and are not matters of public record.

(2) Every distiller, rectifier, wine manufacturer and wholesaler authorized to ship spirituous liquor and wine in this state whether for sale in this state or to be shipped outside the state, on or before the fifteenth day of each month, shall make a report under oath to the supervisor of liquor control setting out all sales of spirituous liquor and wine in this state.

(A) The reports, when made by a licensee who has shipped spirituous liquor and wine into this state, shall show the amount of spirituous liquor and wine shipped or sold to each wholesaler in this state, designating separately the amount of spirituous liquor and the amount of wine. In addition, every distiller, manufacturer, distributor and wholesaler, authorized to sell and ship spirituous and vinous liquor into this state, whether for sale in this state or to be shipped outside this state, at the time of making monthly reports, shall send to the supervisor of liquor control of Missouri true copies of invoices of the sales of

liquor in Missouri. Each invoice shall show, as a separate charge, the amount of the tax due on the spirituous liquor and wine contained in each invoice.

(B) Reports made by distillers, rectifiers and wine manufacturers in this state shall show the amount of spirituous liquor and wine distilled or manufactured, amount bottled, in the amount of spirituous liquor or wine sold in this state, designating separately the amount of spirituous liquor and wine; the amount of spirituous liquor or wine sold outside this state, designating separately the amount of spirituous liquor and wine and the amount of spirituous liquor and wine on hand at the end of each month. They also shall show the amount of spirituous liquor or wine sold or shipped to each wholesale licensee in this state; setting out the date of sale, name and address of licensee and amount of spirituous liquor or wine sold.

(C) Reports made by spirituous liquor and wine wholesalers in this state, among other things, shall show the amount of spirituous liquor and wine received from other distillers, rectifiers, wine manufacturers and wholesalers; the amount of liquor and wine sold other wholesale licensees; and the amount sold to retail licensees. They shall set out the name of each licensee, his/her address, the amount of spirituous liquor or wine sold and the date of sale.

(D) Forms for the reports required by this regulation shall be supplied by the supervisor.

#### **Regulation No. 70-2.100 Report of Brewers and Beer Wholesalers**

*PURPOSE: This rule establishes format for reports of shipment and payment of taxes on malt beverages and nonintoxicating beer.*

(1) Every manufacturer, brewer and bottler authorized to ship malt liquor or nonintoxicating beer into this state and every manufacturer, brewer or bottler in this state, whether for sale in this state or to be shipped outside this state, shall on or before the fifteenth day of each month, make, a report under oath, for the preceding month, to the supervisor of liquor control, setting out all sales of malt liquor and nonintoxicating beer.

(A) The reports, when made by a licensee who has shipped malt liquor and nonintoxicating beer into this state, shall show the amount of malt liquor and nonintoxicating beer shipped or sold to each wholesaler in this state, designating separately the amount of malt liquor and the amount of nonintoxicating beer and designating further what part of them was draught malt liquor and what part of them was bottled or canned malt liquor and designating further what part of them was draught nonintoxicating beer and what part of them was bottled or canned nonintoxicating beer. In addition, every brewer, manufacturer and wholesaler authorized to sell and ship malt liquor and nonintoxicating beer into this state, whether for sale in this state or to be shipped outside this state, at the time of making monthly reports, shall send to the supervisor of liquor control true copies of invoices of the sales of malt liquor and nonintoxicating beer contained in each invoice.

(2) Reports made by manufacturers, brewers and bottlers in this state shall show the quantity of malt liquor or nonintoxicating beer on hand at the beginning of the month, the quantity produced during the month and the quantity sold or shipped out of the state during the month and the quantity on hand at the end of the month, designating separately the amount of malt liquor and the amount of nonintoxicating beer. The report also shall show the amount of malt liquor and nonintoxicating beer shipped or sold to each licensee in this state, designating separately the amount of malt liquor and nonintoxicating beer, and what part was draught and what part was bottled or canned, designating separately the amount of malt liquor and nonintoxicating beer.

(3) It shall be the duty of each holder of a license authorizing the sale of malt liquor or nonintoxicating beer at wholesale to file in the office

of the supervisor of liquor control on or before the fifteenth day of the month a sworn statement showing the amount of malt liquor or nonintoxicating beer purchased during the preceding month, and from whom purchased and designating what part of the amount was draught malt liquor and designating further what part was draught nonintoxicating beer and what part of the amount was bottled or canned nonintoxicating beer.

(A) Forms for the reports required by this regulation shall be supplied by the supervisor.

#### **Regulation No. 70-2.110 Domestic Wine**

*PURPOSE: This rule establishes rules for domestic wine producers licensed under section 311.190, RSMo.*

(1) All domestic wine sold must be in an original package of not less than one hundred (100) milliliters (3.4 ounces) nor more than fifteen and one-half (15.5) gallons.

(2) No person licensed to manufacture and sell domestic wine may use or permit other persons to use any concentrate in production.

(3) All premises used for the manufacture and sale of domestic wine shall be separate and apart from any residence.

(4) All domestic wine in the process of fermentation shall be kept on the premises covered by the license.

#### **Regulation No. 70-2.120 Retail Licensees**

*PURPOSE: This rule establishes conditions of licensing and operation of premises.*

(1) All retail intoxicating liquor and nonintoxicating beer licensees shall keep their licensed premises clean and sanitary and meeting minimum standards of the Missouri Department of Health, as prescribed in 19 CSR 20-1.010 and local sanitation laws and ordinances where applicable.

(2) If any retail licensee holds more than one (1) kind of license for separate business in the same building, then the building shall be partitioned in a manner that the partitions shall run from the front of the building to the rear of the building, from the ceiling to the floor and be permanently affixed to the ceiling, floor, front and rear of the building in a manner as to make two (2) separate and distinct premises. There shall be a separate entrance in front of each of the premises and each of the premises shall have a different street address, so as to indicate sufficiently that the businesses are run separately and distinct from each other and not in conjunction with each other. In addition, the business maintained on each of the premises must be manned and serviced by an entirely separate and distinct group of employees and there shall be no buzzers, bells or other wiring or speaking system connecting one (1) business with the other. Separate files, records and accounts pertaining to the businesses must be maintained.

(3) Hotels holding licenses in their names authorizing the retail sale of intoxicating liquor by the drink for consumption on the premises where sold may maintain as many bars as they like on the licensed premises, provided that the places at which it is sold by the drink, in all respects, shall comply with the provisions of section 311.330, RSMo, that is to say, they shall be easily visible from some hallway, lobby or mezzanine or other part of the hotel; provided further that hotels may dispense intoxicating liquors throughout the whole of the hotel.

(4) Municipal or county airports or terminals or their lessees or concessionaires, leasing or having concession rights for the whole or a particular part of the facility, holding licenses authorizing the retail sale of intoxicating liquor by the drink for consumption on the premises where sold may maintain as many bars as they like on the licensed premises, provided that the places at which it is sold by the drink, in all

respects, shall comply with the provisions of section 311.330, RSMo. They shall be easily visible from some hallway, lobby or mezzanine or other part of the airport or terminal to or through which the public is invited. Provided further, that the applicant, at the time license is applied for, shall advise the supervisor of liquor control in writing of the number of bars to be operated and their locations.

(5) Retailers shall not place or permit the placing of any object on or within the windows of premises covered by licenses which shall impede or obstruct vision from the exterior into the interior. This prohibition shall include illuminated signs, floral decorations, posters, placards, paintings or writings and all other similar devices or designs. In case venetian blinds are used in windows, slats shall be removed entirely across the blind so as to make a visible space beginning at four feet (4') from the sidewalk, and extending six feet (6') above the sidewalk, if the venetian blinds are kept closed. If the venetian blinds are kept open, it shall not be necessary to remove slats provided the slats at all times shall be adjusted horizontally so that the flat surfaces of the seats are parallel with the floor of the licensed premises. If curtains are used, they must be drawn apart so as to permit a clear view into the interior of the premises.

(6) No holder of a retail license shall use illuminated brand signs exclusively for illuminating purposes. Sufficient light must be maintained at all times to insure clear visibility into the interior and within the interior of the premises.

(7) No licensee shall operate, play, or permit the operation of any public speaking system transmitter, sound amplification device or any other type of device, mechanical or electronic, to emit or direct music, spoken words, sounds or noise of any kind exceeding eight-six decibels on an A-weighted scale when measured across a residential property line fifty feet (50') or more from the source of the noise between the hours of 11:00 pm and 11:00 am. This regulation does not supersede any state or local laws or ordinances regulating noise in the area.

(8) Licenses authorizing the retail sale of intoxicating liquor by the drink on Sunday between the hours of 11:00 a.m. and midnight may be issued to qualified applicants for restaurant-bars as defined in section 311.097, RSMo.

(A) An applicant for a restaurant-bar license first shall obtain a license authorizing the retail sale of intoxicating liquor by the drink as provided in either section 311.085, 311.090 or 311.095, RSMo.

(B) Premises for which a restaurant-bar license is sought shall be exactly the same as those premises covered by an existing retail sale of intoxicating liquor by the drink license and the description of the premises on each license shall be identical.

(C) Applicants for a restaurant-bar license shall furnish with the application a certified statement signed by the applicant showing that at least fifty percent (50%) of the gross income of the restaurant-bar for the past one (1) year immediately preceding the application was derived from the sale of prepared meals or food consumed on the premises or a certified statement signed by the applicant showing an annual gross income of at least two hundred thousand dollars (\$200,000) from the sale of prepared meals or food consumed on the premises. Applicants who have not been in business one (1) year shall have been in business at least ninety (90) days immediately preceding application for a restaurant-bar license and shall furnish a certified statement signed by the applicant showing that at least fifty percent (50%) of gross income of the restaurant-bar during the total period of time that it has been in business was derived from the sale of prepared meals or food consumed on the premises or a certified statement signed by the applicant showing that a projected experience based upon its sale of food during the preceding ninety (90) days would exceed not less than two hundred thousand dollars (\$200,000) per year.

(D) Each application for renewal of a restaurant-bar license shall be accompanied by a certified statement signed by the licensee showing

that at least fifty percent (50%) of the gross income of the restaurant-bar for the past one (1) year immediately preceding the date of the renewal application or past calendar year immediately preceding the date of the renewal application was derived from the sale of prepared meals or food consumed on the premises or a certified statement signed by the applicant showing that the restaurant establishment's annual gross food sales for the past year immediately preceding the date of the renewal application or past calendar year immediately preceding the date of the renewal application shall not have been less than two hundred thousand dollars (\$200,000) per year. Applicants not in business one (1) year shall show projected experience based on total period of time in business.

(E) Applicants for a restaurant-bar license shall prepare and maintain the following records in order to substantiate the sales figures as presented in the certified statement, including, but not limited to: prenumbered guest checks, cash register tapes, bank statements and cancelled checks, and invoices for food and intoxicating liquor purchases.

(9) In order to qualify for the exemption to the limitation of three (3) licenses to sell intoxicating liquor at retail by drink for consumption on the premises, as provided in section 311.260, RSMo, licensees, at the time of seeking exemption, shall be required to—

(A) Make application to the supervisor for the exemption;

(B) Furnish with the application a certified statement signed by the licensee showing that at least fifty percent (50%) of the gross income of the restaurant-bar for which exemption is sought, for the past one (1) year immediately preceding the date of the application or past calendar year immediately preceding the date of the application was derived from the sale of prepared meals or food consumed on premises where sold or which has an annual gross income of at least two hundred thousand dollars (\$200,000) from the sale of prepared meals or food consumed on premises where sold. Applicants who have not been in the restaurant-bar business one (1) year shall have been in business at least ninety (90) days immediately preceding application for the license and shall furnish a certified statement signed by the applicant showing that at least fifty percent (50%) of the gross income of the restaurant-bar for which exemption is sought, during the ninety (90)-day period was derived from the sale of prepared meals or food consumed on premises where sold or which has an annual gross income of at least two hundred thousand dollars (\$200,000) from the sale of prepared meals or food consumed on premises where sold; and

(C) Furnish with each application for renewal of any license which has been exempted from the limitation, a certified statement signed by the licensee showing that at least fifty percent (50%) of the gross income of the business for the past one (1) year immediately preceding the date of renewal application or past calendar year immediately preceding the date of the renewal application was derived from the sale of prepared meals or food consumed on the premises where sold or which has an annual gross income of at least two hundred thousand dollars (\$200,000) from the sale of prepared meals or food consumed on premises where sold.

(10) Resorts. Licenses authorizing the retail sale of liquor by the drink may be issued to qualified applicants for resorts as defined in section 311.095, RSMo.

(A) An applicant qualifying as a resort shall furnish with the application, a certified statement signed by the applicant showing that the establishment has at least thirty (30) rooms for the overnight accommodation of transient guests, having a restaurant or similar facility on the premises at least sixty percent (60%) of the gross income of which is derived from the sale of prepared meals or food.

(B) Each application for renewal of a resort license shall be accompanied by a certified statement signed by the applicant showing that at

least sixty percent (60%) of the gross income from restaurant or similar facility for the past year immediately preceding the date of the renewal application or past calendar year immediately preceding the date of the renewal application was derived from the sale of prepared meals or food.

(C) Applicants qualifying for a resort license as a restaurant shall furnish with the application a certified statement signed by the applicant showing that the restaurant establishment's annual gross receipts immediately preceding its application for a license shall not have been less than seventy-five thousand dollars (\$75,000) per year with at least fifty thousand dollars (\$50,000) of such gross receipts from nonalcoholic sales. Applicants who have not been in business one (1) year shall have been in business at least ninety (90) days immediately preceding the application for a license and shall furnish a certified statement signed by the applicant, showing that a projected annual experience based upon its gross receipts during the ninety (90)-day period immediately preceding the date of application would exceed not less than seventy-five thousand dollars (\$75,000) per year with at least fifty thousand dollars (\$50,000) of such gross receipts from nonalcoholic sales.

(D) Each application for renewal of a resort license as a restaurant shall be accompanied by a certified statement signed by the applicant showing that the restaurant establishment's annual gross receipts immediately preceding the date of the renewal application shall not have been less than seventy-five thousand dollars (\$75,000) per year with at least fifty thousand dollars (\$50,000) of such gross receipts from nonalcoholic sales. Applicants for renewal who have not been in business one (1) year immediately preceding application for renewal shall furnish a certified statement signed by the applicant showing that a projected annual experience, based upon its gross receipts during the ninety (90)-day period immediately preceding the date of application, would exceed not less than seventy-five thousand dollars (\$75,000) per year with at least fifty thousand dollars (\$50,000) of such receipts from nonalcoholic sales.

(E) Applicants for a resort license shall prepare and maintain the following records in order to substantiate the sales figures as presented in the certified statement, including, but not limited to: prenumbered guest checks, cash register tapes, bank statements and cancelled checks, and invoices for food and intoxicating liquor purchases.

#### **Regulation No. 70-2.130 Retailer's Conduct of Business**

*PURPOSE: This rule establishes general rules of conducting retail establishments.*

(1) No licensee who shall have had his/her license suspended by order of the supervisor of liquor control shall sell, give away or permit the consumption of any intoxicating liquor or nonintoxicating beer, nor shall s/he order or accept delivery of any intoxicating liquor or nonintoxicating beer during the period of time the order of suspension is in effect. Any licensee desiring to keep his/her premises open for the sale of food or merchandise during the period of suspension shall display the order of suspension issued by the supervisor of liquor control in a conspicuous place on the premises so that all persons visiting the premises may readily see the order of suspension.

(2) No person holding a license for the retail sale of malt liquor by the drink or for the sale of nonintoxicating beer by the drink knowingly shall sell, give away or serve upon the premises described in the license any glass, ice, water, soda water, phosphates or any other kind of liquids to be used for the purpose of mixing intoxicating drinks and commonly referred to as set-ups; nor shall any licensee allow any person while in or upon the premises covered by the license to possess or consume any intoxicating liquor other than malt liquor, if the license is to sell malt liquor containing more than three and two-tenths percent (3.2%) alcohol by weight or any kind of intoxicating liquor if the license is to sell nonintoxicating beer or to pour into, mix with or add

intoxicating liquor to water, soda water, ginger ale, seltzer or other liquid.

(3) The holder of a license authorizing the retail sale of intoxicating liquor by the drink may sell liquor in any quantity, not for resale, but shall not possess any spirituous liquor in any container having a capacity of more than one (1) gallon or any wine in any container having a capacity of more than fifteen and one-half (15 1/2) gallons.

(4) No person holding a license authorizing the retail sale of intoxicating liquor or nonintoxicating beer shall sell or deliver any liquor to any person with knowledge or with reasonable cause to believe, that the person to whom the liquor is sold or delivered has acquired the liquor for the purpose of peddling or reselling it.

(5) No licensee shall sell, give away or possess any spirituous liquor from or in any container when the intoxicating liquor is not that set out on the manufacturer's label on the container or does not have alcoholic content shown on the manufacturer's label.

(6) No retail licensee may bottle any intoxicating liquor from any barrel or other container nor may s/he refill any bottle or add to the contents of the bottle from any barrel or other container.

(7) A licensee selling intoxicating liquor by the drink, when requested to serve a particular brand or type of spirituous liquor or beer, shall not substitute another brand or type of spirituous liquor or beer.

(8) No person holding a license authorizing the sale of intoxicating liquor in the original package shall have the trade name using the words liquor store nor shall s/he advertise his/her place of business as or doing business as a liquor store.

(9) No retail licensee shall allow or cause any sign or advertisement pertaining to intoxicating liquor or malt beverages to be carried or transported upon any sidewalk or street of any municipality or upon any highway of the state. This provision shall not apply to any legal sign or advertisement placed on a vehicle being used to deliver intoxicating liquor or malt beverages.

(10) Whenever hours of time are set forth in the Liquor Control Act, they shall be interpreted to mean clock time which shall be either Central Standard Time or Central Daylight Time, whichever one is then being observed.

(11) No person holding a license authorizing the retail sale of intoxicating liquor or nonintoxicating beer shall possess any intoxicating liquor or nonintoxicating beer which has not been purchased from, by or through duly licensed wholesalers.

(12) No holder of a license to sell intoxicating liquor, five percent (5%) beer or nonintoxicating beer by the drink shall give to, sell or permit to be given to or sold to any on duty employee of the establishment operated by the licensee any intoxicating liquor or nonintoxicating beer, in any quantity, nor shall s/he permit any patron of the establishment operated by him/her to give to any on duty employee any intoxicating liquor or nonintoxicating beer, in any quantity, or to purchase it for or drink it with any on duty employee, in the establishment or on premises of the licensee. This provision shall not apply when the establishment is closed to the public, so long as the licensee is allowed to be open at that time pursuant to section 311.290, RSMo, or any other provisions of Chapters 311 or 312 relating to opening and closing.

(13) Improper Acts.

(A) At no time, under any circumstances, shall any licensee or his/her employees immediately fail to prevent or suppress any violent quarrel, disorder, brawl, fight or other improper or unlawful conduct of any person upon the licensed premises, nor shall any licensee or his/her employees allow any indecent, profane or obscene language, song, entertainment, literature or advertising material upon the licensed

premises.

(B) In the event that a licensee or his/her employee knows or should have known, that an illegal or violent act has been committed on or about the licensed premises, they immediately shall report the occurrence to law enforcement authorities and shall cooperate with law enforcement authorities and agents of the Division of Liquor Control during the course of any investigation into an occurrence.

(14) Lewdness. No retail licensee or his/her employee shall permit in or upon his/her licensed premises—

(A) The performance of acts, or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law;

(B) The displaying of any portion of the areola of the female breast;

(C) The actual or simulated touching, caressing or fondling of the breast, buttocks, anus or genitals;

(D) The actual or simulated displaying of the pubic hair, anus, vulva or genitals;

(E) The permitting by a licensee of any person to remain in or upon the licensed premises who exposes to public view any portion of his/her genitals or anus; and

(F) The displaying of films, video programs or pictures depicting acts, the live performances of which are prohibited by this regulation or by any other law.

(15) In the event the premises of any licensee is declared to be off-limits by the military authorities, the licensee shall not permit any member of the armed forces to be in or upon the premises covered by his/her license. Provided, this shall not apply unless the licensee is notified of the order by the supervisor of liquor control nor shall it apply to members of the Military Police or Shore Patrol.

#### **Regulation No. 70-2.140**

##### **All Licensees**

*PURPOSE: This rule establishes additional rules for the conduct of business in both retail and wholesale establishments regarding inspection, recordkeeping, storage, employment, sales, gambling and consumption by minors.*

(1) Licensees at all times are responsible for the conduct of their business and at all times are directly responsible for any act or conduct of any employee on the premises which is in violation of the Intoxicating Liquor Laws or the Nonintoxicating Beer Laws or the regulations of the supervisor of liquor control.

(2) All licensees shall allow the licensed premises and all portions of the buildings of the premises, including all rooms, cellars, outbuildings, passageways, closets, vaults, yards, attics and all buildings used in connection with the operations carried on under the license and which are in their possession or under their control, and all places where they keep or have liquor stored, to be inspected by the supervisor of liquor control and their agents. Licensees shall cooperate fully with the agents during the inspections.

(3) All licensees are required to keep complete and accurate records pertaining to their businesses. These records shall include a complete and accurate record of all purchases and of all sales of intoxicating liquor and nonintoxicating beer made by them. These records must include the names and addresses of all persons from whom the liquor is purchased, the dates, kinds and quantities of the purchases and the dates and amounts of payments on account. They also should include the daily gross returns from sales.

(A) All licensees shall keep all files, books, records, papers, state, county and city licenses, federal tax stamps and accounts and memoranda pertaining to the business conducted by them, on the licensed premises and they, upon request of the supervisor of liquor control or

his/her duly authorized agents and auditors, promptly shall allow an inspection and audit to be made by the supervisor or his/her agents, of files, books, records, papers, state, county and city licenses, federal tax stamps, accounts and memoranda and shall permit copies to be made and taken of them.

(B) All records required to be kept by law or rule of the supervisor must be kept and preserved for a period of two (2) years from the date the record was made.

(4) No licensee shall buy or accept any warehouse receipt unless the seller or donor of the receipt first shall acquire the written permission of the supervisor of liquor control to sell or give away the receipt.

(5) No licensee shall have consigned to him/her, receive or accept the delivery of, or keep in storage any intoxicating liquors or nonintoxicating beer upon any premises other than those described in his/her license without first having obtained the written permission of the supervisor of liquor control.

(6) No wholesale or retail licensee shall sell or possess any spirituous liquor in any package or container holding less than fifty (50) milliliters (1.7 ounces) or more than one (1) gallon. No wholesale or retail licensee shall sell or possess any wine in any package or container holding less than one hundred (100) milliliters (3.4 ounces) or more than fifteen and one-half (15 1/2) gallons.

(7) Sale by Minor Prohibited—Exceptions. No person licensed by the supervisor of liquor control to sell intoxicating liquor or nonintoxicating beer in the original package shall employ any person under the age of twenty-one (21) years to sell or assist in the sale or dispensing of intoxicating liquor or nonintoxicating beer except that any business so licensed may employ persons at least eighteen (18) years of age to stock, arrange displays, operate the cash register or scanner connected to a cash register, accept payment and sack for carrying out intoxicating liquor or nonintoxicating beer. Employees under the age of twenty-one (21) years may not deliver intoxicating liquor, nor take nonintoxicating beer away from the licensed premises. No person licensed by the supervisor of liquor control to sell intoxicating liquor, or nonintoxicating beer by the drink shall employ any person under the age of twenty-one (21) years to sell or assist in the sale or dispensing of intoxicating liquor, or nonintoxicating beer except that any business so licensed, persons eighteen (18) years of age or older, when acting in the capacity as a waiter or waitress, may accept payment for or serve intoxicating liquor, or nonintoxicating beer in places of business which sell food for consumption on the premises if at least fifty percent (50%) of all sales in those places consist of food. Employees under twenty-one (21) years of age shall not mix or serve across the bar intoxicating beverages or nonintoxicating beer.

(8) Licensees who—

(A) Desire to employ persons under the age of twenty-one (21) as authorized by section (7) shall make application to supervisor using forms provided for that purpose; and

(B) Employ persons under the age of twenty-one (21) years as authorized by section (7) who do not have at least fifty percent (50%) of the gross sales consisting of nonalcoholic sales shall have an employee twenty-one (21) years of age or older on the licensed premises during all hours of operation.

(9) No person licensed by the supervisor of liquor control shall use or permit to be used upon his/her licensed premises any self-service, coin-operated, mechanical devices or automatic dispensers for the purpose of selling or dispensing intoxicating liquor or nonintoxicating beer.

(10) No licensee shall permit, upon or about his/her licensed premises, any gambling of any kind or character whatsoever in which the one who plays stands to win or lose money, trade checks, prizes, merchandise or any other consideration whatsoever. No licensee shall

have any gambling devices upon his/her licensed premises where money, trade checks, prizes, merchandise or property or any other consideration whatsoever may be won or lost. Notwithstanding the previously mentioned, any licensee may sponsor or allow promotional games or contests of chance to be conducted upon his/her licensed premises, provided that—

(A) For purposes of this section, the phrase something of value means any money or property, any token, object or article exchangeable for money or property or any form of credit or promise directly or indirectly contemplating transfer of money or property or of any interest in them or involving extension of a service, entertainment or a privilege of playing at a game or scheme without charge;

(B) Money or something of value is not required to be given directly or indirectly for the privilege or opportunity of participating in games or contests or for receiving the award or prize from participation;

(C) Intoxicating liquor, five percent (5%) beer or nonintoxicating beer is not related to or an element of a game or contest either directly or indirectly;

(D) The conduct or playing of games of bingo on licensed premises by organizations licensed by the Missouri Gaming Commission to conduct bingo in accordance with Chapter 313, RSMo, shall not constitute gambling or gambling activities when the games are conducted in accordance with Chapter 313, RSMo and the activity, by itself, shall not constitute a violation of this regulation;

(E) The sale of state lottery tickets or shares on licensed premises licensed by the lottery commission to sell lottery tickets or shares to the public shall not be deemed to constitute gambling or gambling devices when conducted in accordance with Chapter 313, RSMo and the activity, by itself, shall not constitute a violation of this regulation;

(F) Pari-mutual wagering on horses at licensed tracks licensed by the Missouri Horse Racing Commission shall not be deemed to constitute gambling or gambling devices when conducted in accordance with Chapter 313, RSMo and this activity on licensed premises, by itself, shall not constitute a violation of this regulation; and

(G) The giving of door prizes or other gifts by lot or drawing after payment of a price by members or guests of a charitable organization which has obtained an exemption from payment of federal income taxes as provided in Section 501(C) (3) of the Internal Revenue Code of 1954, shall not constitute gambling or gambling devices when conducted on licensed premises by the charitable organization and that activity, by itself, shall not constitute a violation of this regulation.

(11) No licensee shall employ on or about the licensed premises any person who has been convicted since the ratification of the twenty-first amendment of the Constitution of the United States of a violation of the provisions of any law applicable to the manufacture or sale of intoxicating liquor; nor shall any licensee employ on or about the licensed premises any person who shall have had a license revoked under Chapter 311 or 312, RSMo.

(A) No retail licensee shall employ a prohibited felon to any position that involves the direct participation in retail sales of intoxicating liquor. The phrase “direct participation in retail sales” includes the duties of accepting payment, taking orders, delivering, mixing or assisting in mixing or serving intoxicating liquor in the capacity of, but not limited to, bar manager, bartender, waiter, waitress, cashier and sales clerk.

(B) A “prohibited felon” is one who has been convicted of a crime under the laws of any state or the United States, where the possible penalty at the time of the offense exceeded one (1) year confinement and the crime involves homicide, assault involving a threat of death or serious injury or actual physical injury, assault upon a law enforcement officer, kidnapping or false imprisonment, any action that would constitute a sexual offense under Chapter 566, RSMo, prostitution,

pornography, robbery, arson, stealing, burglary, forgery, counterfeiting, identity theft or false identification, bribery, unlawful use of a weapon, gambling, driving or boating while intoxicated, perjury, fake reports or declarations, the possession, purchase, sale or manufacture of drugs, tax fraud, mail fraud, food stamp fraud, or welfare fraud.

(C) Each retail licensee shall report the identity of any employee with a felony conviction to the supervisor of alcohol and tobacco control within ten (10) days of his/her employment and each retail licensee shall notify the supervisor of alcohol and tobacco control within ten

(10) days of the employee leaving the licensee’s employment, using forms provided by the division for that purpose.

(D) If the employee is hired in a position that involves the direct participation in retail sales and is a prohibited felon, the division shall notify the licensee that the employee may not serve in the position involving the direct participation in retail sales upon receipt of notice from the licensee. The licensee will either dismiss the employee or reassign the employee to a position not involving the direct participation in retail sales within ten (10) days of the date notice is received by licensee from the division by regular mail service.

(E) If the division determines that an employee involved in the direct participation of retail sales has a felony conviction not listed in subsection (11)(B), above, but believes that the felon’s conviction should disqualify the employee from the direct participation in retail sales, the division will notify the licensee within ten (10) days. The licensee will either dismiss the employee, reassign the employee to a position not directly involving the retail sale of intoxicating liquor, or file a written appeal with the division within ten (10) days of receiving notice from the division by regular mail service.

(F) If a licensee, or any employee of the licensee acting through the licensee, wishes to appeal a determination by the division that the employee is disqualified from the direct participation in the retail sale of intoxicating liquor as set forth in subsection (11)(E), above, the appeal will be heard by the supervisor or his/her designee within thirty (30) days of the division receiving written notice of the appeal. At the appeal, the division will determine whether the employee’s conviction is reasonably related to the competency of the employee to be involved in the direct participation of retail sales. A written determination will be sent to the licensee and employee, if an address is supplied by the employee, within ten (10) days of the appeal.

(12) No licensee, his/her agent or employee shall sell intoxicating liquor or nonintoxicating beer in any place other than that designated on the license or at any other time or in any other manner except as authorized by the license.

(13) No licensee shall permit anyone under the age of twenty-one (21) years of age to consume intoxicating liquor or three and two-tenths percent (3.2%) nonintoxicating beer upon or about his/her licensed premises.

(14) No licensee or employee shall allow upon or about the licensed premises solicitation for the purposes of prostitution or other immoral activities by any person.

(15) No licensee or employee shall possess, store, sell or offer for sale, give away or otherwise dispose of upon or about the licensed premises or permit any person upon or about the licensed premises to possess, store, sell or offer for sale, give away or otherwise dispose of any controlled substance as defined in Chapter 195, RSMo.

(16) Except as otherwise provided in any provision of Chapter 311 or 312 relating to Sunday licenses, no holder of a license to sell intoxicating liquor or nonintoxicating beer shall sell, give away or otherwise dispose of any nonintoxicating beer upon or about the licensed premises between the hours of 1:30 a.m. and 6:00 a.m. on weekdays and between the hours of 1:30 a.m. Sunday and 6:00 a.m. Monday. Further, no nonintoxicating beer may be sold, given away or



otherwise disposed of, on premises used as a polling place, between the hours of 1:30 a.m. and 7:30 p.m. upon the day of any general or primary election day in this state.

(17) No licensee or employee shall mix or pour, or permit to be mixed or poured, any intoxicating liquor or nonintoxicating beer directly into any person's mouth upon or about the licensed premises.

#### **Regulation No. 70-2.150 Refunds**

*PURPOSE: This rule establishes procedures for refund of tax on intoxicating liquor and nonintoxicating beer.*

(1) Every licensee who claims a refund for Missouri tax on intoxicating liquor or a refund for Missouri tax on malt liquor or nonintoxicating beer shall present claims to the supervisor of liquor control and shall attach to the claim a complete statement, under oath, as to the facts supporting the claim.

(2) After the claim is accepted for audit by the supervisor and the claimant has been notified of the acceptance, then an inspection shall be made by the supervisor or his/her agents. The agents shall make an affidavit that they inspected the intoxicating liquors, malt liquors or nonintoxicating beer denoting in the affidavit the brand, name and serial number of the containers or cases and the disposition to be made of the spirituous liquor, wine, malt liquor or nonintoxicating beer.

(3) The claims, when accepted by the supervisor for audit, shall be presented to the appropriations committee of the general assembly. The final approval of all the claims rests with the general assembly and the governor and the supervisor does not guarantee any payment on any claim.

(4) Under no circumstances shall refund claims be accepted by the supervisor if the sole reason for their presentation to him/her is because the claimant has purchased beyond his/her capacity to sell.

(5) The supervisor shall not accept claims for refunds for unused portions of permits.

(6) The supervisor reserves the right to refuse to accept for audit any or all claims presented.

#### **Regulation No. 70-2.170 Warehouse Receipts for Storage of Intoxicating Liquor**

*PURPOSE: This rule defines warehouse receipts and establishes rules governing their use in business practices.*

(1) Section 311.380, RSMo makes it a misdemeanor for any person to sell, offer for sale or give away any warehouse receipt(s) of intoxicating liquor without first securing the permission of the supervisor of liquor control to do so. The term warehouse receipt, as used in section 311.380, RSMo, is defined to mean any warehouse receipt issued for the storage of intoxicating liquor which can be negotiated and any nonnegotiable warehouse receipt which can be assigned, transferred or sold.

(2) Any person, firm or corporation licensed by the supervisor of liquor control of Missouri to sell intoxicating liquor may pledge any warehouse receipt(s) owned by him/her to secure the payment of any debt to any firm, person or corporation in Missouri. Any Missouri state bank or trust company which is a member of the Federal Reserve System and any national bank with its principal office in Missouri may repledge with a federal reserve bank any warehouse receipts of which it is the pledgee.

(A) In case of default in the terms of the pledge agreement, the pledgee or the assignee of the pledge agreement may not negotiate, assign, transfer or sell any warehouse receipt(s) without first obtaining the permission of the supervisor of liquor control to do so.

(B) Request for permission shall be made by the pledgee to the

supervisor of liquor control in writing and in the request the pledgee shall state the name of the proposed purchaser and shall state whether or not the proposed purchaser intends to take possession of the liquor under the receipt(s). Under no circumstances shall permission be given to the pledgee to sell any of the warehouse receipt(s) to any person, firm or corporation which intends to take possession of intoxicating liquor described in the receipt(s) unless the proposed purchaser is duly licensed as a wholesaler or manufacturer by the supervisor of liquor control in Missouri.

(C) The pledgee seeking the permission to sell the warehouse receipt(s) shall accompany the request by a photostatic copy of the pledge agreement and a photostatic copy of the warehouse receipt(s) which s/he desires to sell, together with an inventory of the liquor covered by the receipts, unless the inventory is contained in the receipts.

(3) Under no circumstances shall any person, firm or corporation licensed by the supervisor of liquor control import or cause to be imported or transport or cause to be transported into the state any intoxicating liquor which has been sold out of the state to satisfy the payment of any debt contracted outside of the state.

(4) No person, firm or corporation shall be granted permission to sell warehouse receipts and no licensee of the supervisor of liquor control shall be given permission to purchase any warehouse receipt(s) unless the person, firm or corporation seeking permission, either to sell or to buy, shall agree as a condition precedent to the granting of any permission that s/he shall make regular monthly reports for each calendar month by the fifteenth of the following month in accordance with forms designated by the supervisor of liquor control and unless the reports are made, any permission given will be promptly revoked.

#### **Regulation No. 70-2.180 Ceded Areas**

*PURPOSE: This rule exempts from tax and license fees in areas ceded to the federal government for military installations.*

(1) Licenses are not required for the retail sale of intoxicating liquor and nonintoxicating beer for establishments located on lands within the state ceded to the federal government for military purposes and upon which military installations exist or for United States military federal instrumentalities.

(2) No excise nor inspection fees shall be imposed on any intoxicating liquor or nonintoxicating beer sold or offered for sale by establishments located on lands within the state ceded to the federal government and upon which military installations exist.

#### **Regulation No. 70-2.190 Unlawful Discrimination and Price Scheduling**

*PURPOSE: This rule establishes procedures for price posting, deliveries, return of merchandise and discounts.*

(1) Mechanized Product Price Register.

(A) The Mechanized Product Price Register is a system designed to accept pricing information from wholesalers in a machine readable format at various set times of the month for varying processing cycles. Those transactions are processed into a master file of prices by brand and wholesaler number. Wholesaler transactions shall be submitted on either IBM eighty (80) column cards or a magnetic tape (nine (9) tract, sixteen hundred (1600) bits per inch) which are acceptable to the IBM/370 Mod 145 computer system or a computer system that the supervisor may order. A six (6)-digit brand number for all liquors and wines from the Universal Numeric Coding System for Alcoholic Beverages shall be used to identify all products posted in the Mechanized Product Price Register. Unique wholesaler numbers shall be assigned by the supervisor for individual identification in the

register. The Mechanized Product Price Register or commonly known as Master Price Schedule, of all brands of intoxicating liquor and wine containing alcohol in excess of five percent (5%) by weight shall be maintained by the supervisor. This master file shall contain the following information by wholesalers: six (6)-digit brand number and check digit brand name, vendor number, class and type, age, proof and/or percent of alcoholic content by weight, bottle and case prices, discount code and wholesaler posting brand.

(B) The following reports from the Mechanized Product Price Register will be made available to all interested parties on a periodic basis:

1. Master Price Schedule. The master schedule provides a detailed listing of all prices charged for all items sold by each wholesaler;
2. Cumulative Change Report. The Cumulative Change Report lists all changes to the master file from the last master schedule printing to the present;
3. Change Report. The Change Report lists all changes to master schedules during a given change cycle;
4. Amendments Report. The Amendments Report lists all amendments to master schedule items during a given amendment cycle;
5. Wholesaler Transaction and Report. This report lists all transactions, by wholesaler, for a given processing cycle; and
6. Wholesaler/Vendor Report. This report lists by wholesaler, all vendors and corresponding brands sold by all wholesalers or by certain selected wholesalers, along with pricing information for each item.

(2) Pricing Rules to Prohibit Discrimination.

(A) Supplemental Posting. When a new product is added by a wholesaler, a supplemental posting must be made to the supervisor. New product prices must meet the following criteria:

1. All wholesalers posting prices for a new brand must first be authorized for that brand by the supervisor. A wholesaler may post his/her prices for a new product at any time during the month, after all brand registration requirements have been met. The supervisor will then issue a letter of approval on which the wholesaler will be required to post the following information: full brand name, vendor name and number, brand number and check digit, class and type, age, proof and/or percent of alcoholic content by weight, bottle price, case price, bottles per case. After the letter is returned to the supervisor by the wholesaler with this information it will be stamped APPROVED or DISAPPROVED and dated. Seven (7) days after this letter has been stamped APPROVED and dated by the supervisor, the product may be sold;

2. Any new items in the state, including new products, new sizes or new proofs being posted on supplemental schedules may be posted at any price the wholesaler desires. This category of new items must be posted within the same calendar month. However, a new item on a supplemental schedule that previously has been posted by another wholesaler may not be posted at a price lower than the price currently established by schedules in effect; and

3. The price posted in the supplemental schedule shall remain in fact and shall not be subject to change before the first of the month when a regularly filed schedule shall become effective.

(B) Monthly Price Changes.

1. All wholesalers shall file their monthly price changes in machine readable form with the supervisor or in a form s/he designates on or before the tenth calendar day of each month unless otherwise ordered by him/her. When the tenth day of the month falls on a Sunday or legal holiday, the schedule shall be filed on the next regular business day.

These price changes shall be coded to designate that they are changes to existing prices on the master file. In addition, wholesalers may file prices for new products and new sizes which will be coded to designate that they are additions to the master file. Where an item previously has been posted by another wholesaler, a wholesaler may not post a price lower than the price currently established by schedules in effect.

(C) Amendments.

1. Within three (3) days, excluding Sundays and holidays and on a date to be fixed by the supervisor when s/he makes available for inspection the Master Price Schedule or the Cumulative Change Report, a wholesaler may amend his/her filed schedule for sales to a retailer or purchase for a retailer or by a retailer through a wholesaler, in order to meet lower competing prices and discounts for intoxicating liquor or wine of the same brand, trade name, age and proof.

2. All price changes must be only downward. No price changes shall be made upward in amendment processing. Any transaction attempting to lower a price below the lowest scheduled price will be flagged as an error and will be totally rejected.

(D) Discounts.

1. The granting of any discount is optional with the seller, but when given must not exceed one (1) per centum for quantity of liquor and wine and one (1) per centum for payment on or before a certain date.

2. Quantity discounts. A quantity discount may be granted only for quantities of two (2) or more. If a price is listed for bottles only, then a quantity discount may be allowed on quantities of two (2) or more bottles. If a price is listed for both bottles and cases, then a quantity discount may be allowed only on quantities of two (2) or more unbroken cases. Quantity discounts may be graduated but may not exceed the maximum one percent (1%).

3. Discounts for time of payment. A discount for time of payment may be granted only for 1) payment for time of delivery, 2) payment on or before ten (10) days from the date of delivery or 3) payment on or before fifteen (15) days from the date of delivery. Only one (1) discount may be granted during any one (1) month, except that a wholesaler may amend his/her schedule to meet competing discounts for time of payment.

4. The combination of discounts which shall be posted on the Mechanized Price Register are as follows: No discount, one percent (1%) for time of payment, one percent (1%) for quantity discounts, one percent (1%) for time of payment and one percent (1%) for quantity.

5. No person licensed to sell intoxicating liquor and wine at retail may accept any discount, rebate, free goods, allowances or other inducement from any wholesalers except the discount for payment and quantity discount on or before a certain date.

(E) Case Size. For the purpose of this regulation, a case of intoxicating liquor or a case of wine is declared to be a cardboard, wooden or other container, containing bottles of equal size filled with intoxicating liquor or wine of the same brand, age and proof. The following table depicts the number of bottles considered to be a case of various bottle sizes for both the English and metric systems of measure, for price scheduling purposes:

<u>Size of Bottle</u>	<u>Number of Bottles</u> <u>Size of Bottle per Case</u>
Less than 6.3 oz	48, 60, 96, 120, 144, 192 or 240
8 oz up to, but not including, 10 oz	48
10 oz up to, but not including, 21 oz	24
21 oz up to, but not including, 43 oz	12
43 oz up to, but not including, 85 oz	6
85 oz up to and including 128 oz	3, 4 or 6

1. The Universal Coding of Alcoholic Beverages for Products by container size shall be used to code the bottle size. An item is declared to be either a bottle or a case of intoxicating liquor or wine scheduled as required.

2. All sizes less than one-half (1/2) pint or eight (8) ounces under the English system of measure shall be defined as miniatures to be sold to airlines and railroads. Under the metric system of measure, miniatures to be sold to airlines and railroads are defined as fifty (50) milliliters (1.7 ounces) for spirituous liquors and one hundred (100) milliliters (3.4 ounces) for vinous liquors. Case sizes for miniatures shall be 240, 192, 144, 120, 96, 60 and 48 bottles. Miniatures shall be sold in only one (1) case size for each bottle size sold.

3. If an intoxicating liquor or wine product is packaged by the manufacturer in a bottle quantity for that bottle size exceeding one but either more or less than the case quantity for the bottle size listed in subsection (2) (E), a wholesaler may sell that package for a total price that reflects the same per bottle price as the per bottle price in the posted case price, if the wholesaler's invoice specifies the quantity in the package.

(F) The price to retailers, except retailers operating railroad cars, shall include federal custom duties, internal revenue taxes, state excise tax, bottling and handling charges and the cost of delivery to the retailer. The price to retailers operating railroad cars may be scheduled at a price "ex state excise tax," but shall include all other taxes and costs computed in prices to other retailers. No charge(s) shall be made in addition to the price except that on past due accounts there may be imposed a finance (interest) charge in accord with that permitted by law. Provided, however, that if a wholesaler elects to impose a finance (interest) charge on past due account the charge shall be of uniform rate to all retailers and shall be imposed on all retailers who have past due accounts.

(G) Delivery. Any brand of liquor or wine sold to a retailer must be shipped to and received by the retailer in the amount for which the scheduled price set forth on the invoice is in effect. No wholesaler may take an order for delivery in a subsequent month, except that on and after the date on which amended schedules are filed, orders may be taken for delivery in the following month at the price in effect for that month. Orders may not be shipped before the first day of the following month.

(H) Returns. Merchandise returns exceeding seven (7) days from delivery date shall not be accepted for return from a retailer, except pursuant to a court order or with prior approval from the supervisor for any of the following reasons:

1. The merchandise delivered does not conform to the merchandise ordered, whether an error was made at the time the order was taken or when the merchandise was delivered. Requests to return merchandise delivered in error must be submitted to the supervisor within thirty (30) days of the original invoice; or

2. The retailer is abandoning the retail liquor business.

(I) Breakage, Samples, Expenses. As part of its regular books and records, each wholesaler licensed to sell intoxicating liquor or wine shall keep a monthly record of all allowances for breakage containing the name, address and license number of the customer, the amount of breakage allowance, the date and number of the invoice of sale and the federal strip stamp numbers of each broken bottle for which allowance is given. No allowance for breakage shall be given unless the broken bottle is returned to the seller within seventy-two (72) hours after delivery and where the container is required to have a federal strip stamp affixed to the container, the stamp must be intact at the time of return. Broken bottles shall be kept available on the wholesaler's licensed premises for inspection by representatives of the supervisor and may

not be removed from the licensed premises or destroyed without permission from the supervisor.

(J) Posting of Contraband Liquors and Wines Purchased From Supervisor. Bottles or cases of liquor or wine as described in subsection (2) (E) which have been declared contraband and purchased by a wholesaler from the supervisor or the officer who seized the same under the provisions of sections 311.820 and 311.840, RSMo or by a wholesaler from a wholesaler who so purchased the same, may be scheduled by the wholesaler at prices less than other liquors and wines of the same brand, age and proof. When the liquors and wines are so scheduled, the schedule shall be accompanied by a writing on which the liquors and wines are exactly described and the quantity(ies) available for purchase set forth and upon sale of all or any part of the quantity a copy of the invoice shall be sent to the supervisor upon the day it is prepared. Only liquors and wines so purchased by a wholesaler may be sold at the posted prices.

(K) Discriminatory Agreements.

1. No person holding a license as a manufacturer-solicitor or out-state solicitor of spirituous liquor or wine shall enter into or participate in any combination or agreement with any person holding a license as a wholesaler or wholesale-solicitor for the sale of spirituous liquor or wine which restrict the customers to whom the wholesaler or wholesale-solicitor may sell merchandise which s/he owns.

2. No person holding a license as the wholesaler or wholesale-solicitor for the sale of spirituous liquor or wine shall enter into or participate in any combination or agreement with any person holding a license as a manufacturer-solicitor or outstate solicitor of spirituous liquor or wine, which restricts the customers to whom the wholesaler or wholesale-solicitor may sell merchandise which s/he owns.

(L) Universal Numeric Codes on Invoices.

1. The Universal Numeric Code for Alcoholic Beverages shall be used to code all liquors and Missouri's six (6)-digit wine code shall be used to code all wines on all invoices written by any manufacturer, vintner, solicitor and/or wholesaler licensed by the Division of Liquor Control of Missouri; this shall include invoices written by wholesalers to retail licensee. The brand number to be used concurrent with other descriptive data by Missouri licensed manufacturers, vintners and solicitors is the six (6)-digit number developed by the Distilled Spirits Council of the United States, Inc. and Missouri's six (6)-digit wine code. In addition, the descriptive data for liquors and wines shall include the age or vintage, proof or percent of alcohol by weight, class and type and brand name. Missouri wholesalers shall include brand name, age and proof for spirituous liquors and vintage for wines on all invoices to retailers when the vintage creates a cost differential for the same type of wine. Any failure of any person, firm or corporation licensed under any provisions of Chapters 311 and 312, RSMo to comply in all respects with the rules and any violation by any licensee of these rules shall be deemed to be cause for the revocation or suspension of the license of the offending licensee.

## **Regulation No. 70-2.200**

### **Salesmen**

*PURPOSE: This rule defines a salesman, establishes procedures for obtaining permit, sets out rules of conduct and provides penalties for failure to comply with those rules.*

(1) A salesman of a licensed manufacturer or licensed solicitor shall mean and include any person including the owner, partner, officer, director, employee, agent or representative of a manufacturer or solicitor, who procures or seeks to procure an order, bargain, contract or agreement for the sale of intoxicating liquor containing alcohol in

excess of five percent (5%) by weight by a licensed manufacturer (distiller or wine maker) or solicitor to a licensed wholesaler, or who is engaged in promoting the sale of intoxicating liquor to licensed wholesalers or in promoting the business of any person, firm or corporation engaged in manufacturing, selling or both of the intoxicating liquor to licensed wholesalers, whether the manufacturer or seller resides within the state and sells to licensed wholesalers within the state or whether the seller resides without the state and sells to licensed wholesalers within the state.

(2) A salesman of a licensed wholesaler shall mean and include any person, including the owner, partner, officer, director, employee, agent or representative of a wholesaler, who procures or seeks to procure an order, bargain, contract or agreement for the sale of intoxicating liquor containing alcohol in excess of five percent (5%) by weight by a licensed wholesaler to a licensed retailer or who is engaged in promoting the sale of intoxicating liquor to licensed retailers or in promoting the business of any licensed wholesaler.

(3) No person shall act as a salesman as defined in this rule for a manufacturer, solicitor or wholesaler within the state after February 18, 1973 unless the person first shall have applied for and received a permit from the supervisor of liquor control.

(4) Any adult person, except the holder of a retail license, his/her or its employees or agents, may make application to the supervisor of liquor control for a salesman's permit, which application shall be in a form and shall include terms as the supervisor of liquor control may prescribe. The application shall set forth the name and address of the person, firm or corporation who employs the applicant or whom the applicant represents and also the name and address of the applicant. The applicant shall not be employed by or represent any person, firm or corporation whose name does not appear on the application as his/her employer or principal. Upon approval of any application, the supervisor shall issue a permit to the applicant, which permit shall not expire but shall remain active until surrendered, suspended or revoked.

(5) The supervisor of liquor control from time-to-time or at any time, on reasonable notice, may require the principal or employer of any salesman holding a permit to inform the supervisor of liquor control in writing under oath as to the terms of the salesman's representation or employment, including his/her compensation, remuneration, expense account payments. No manufacturer, solicitor or wholesaler shall pay directly or indirectly any commission, remuneration, expense account or other thing of value to any person for activities as a salesman as defined in this rule unless the salesman holds a permit and unless the manufacturer, solicitor or wholesaler is specified on the salesman's application as the employer or principal of the salesman.

(6) All salesmen shall exhibit their permits at any time while engaged in soliciting or taking orders for or promoting the sale of intoxicating liquor upon demand of any agent or employee of the Division of Liquor Control, of any duly constituted peace officer or upon request of any licensee.

(7) No licensee shall purchase intoxicating liquor from or give an order to any person who is not the holder of a permit duly issued.

(8) If a salesman shall leave the employ of the employer or principal specified on his/her application, s/he immediately shall notify the supervisor and surrender his/her permit with-in five (5) days. Failure to surrender the permit within the five (5) days shall make the salesman ineligible for any other permit for a period of two (2) years. It also shall be the duty of the employer or principal whose name is specified on the salesman's application to notify the supervisor within five (5) days of the termination of the salesman's employment or representation.

(9) If the holder of a salesman's permit changes his/her address from that noted on his/her application, s/he shall notify the supervisor of the change of address within five (5) days. Failure to so notify the

supervisor of a change of address shall make the salesman's permit subject to revocation.

(10) If the holder of a salesman's permit shall violate the provisions of the Liquor Control Law or any of the corresponding rules, the supervisor may suspend or revoke the permit issued to the salesman and, in addition to suspension or revocation, may suspend or revoke the license of the employer or principal of the salesman.

**Regulation No. 70-2.220**  
**Prohibiting Manufacturers and Solicitors of**  
**Intoxicating Liquor and Licensed Retailers**  
**From Contacting Each Other for Business Purposes**

*PURPOSE: This rule prohibits contact between manufacturers or solicitors and retail licensees who are licensed to sell intoxicating liquor in excess of five percent by weight.*

(1) No person licensed as a manufacturer (distiller or wine maker) or solicitor of intoxicating liquor containing alcohol in excess of five percent (5%) by weight, or any of his/her or its officers, directors, employees, agents or representatives shall—

(A) Solicit or take orders for this intoxicating liquor from a licensed retailer;

(B) Call upon, contact or meet with a licensed retailer or his/her or its employees or agents for any purpose in any way connected with or related to intoxicating liquor by any means or at any place; except to promote or advertise the manufacturer's line of products; or

(C) Have called upon, contacted or met with a licensed retailer or his/her or its employees or agents for another purpose, engage in any activity prohibited by subsections (1)(A) and (B).

(2) No person licensed as a retailer of intoxicating liquor containing alcohol in excess of five percent (5%) by weight, or any of his/her or its employees or agents, shall—

(A) Offer or give an order for such intoxicating liquor to a person licensed as a manufacturer (distiller or wine maker) or solicitor of intoxicating liquor containing alcohol in excess of five percent (5%) by weight, or any of his/her or its officers, directors, employees, agents or representatives;

(B) Call upon, contact or meet at places other than the retailer's place of business with the manufacturers or solicitors or any of his/her or its officers, directors, employees, agents or representatives for any purpose in any way connected with or related to intoxicating liquor by any means or at any place; or

(C) Have called upon, contacted or met with the manufacturer or any of his/her or its officers, directors, employees, agents or representatives for any other purpose or engage in any activity prohibited by subsections (2) (A) and (B).

**Regulation No. 70-2.230**  
**Multiple Store Retailers**

*PURPOSE: This rule establishes procedure for storage and transfer from a central warehouse by multiple licensed intoxicating liquor licensees.*

(1) This regulation applies to all persons, firms or corporations who own and operate more than one (1) premises licensed to sell intoxicating liquor containing alcohol in excess of five percent (5%) by weight at retail.

(2) Any person, firm or corporation defined in section (1), with the permission of the supervisor of liquor control, may designate one (1) or more places as a central warehouse to which intoxicating liquors ordered and purchased by a person, firm or corporation from licensed wholesalers may be delivered by licensed wholesalers and at which

intoxicating liquors so owned by a person, firm or corporation may be stored.

(3) Any person, firm or corporation defined in section (1) owning and storing intoxicating liquors in a central warehouse as provided in section (1) may transfer all or any part of the intoxicating liquors so stored from the central warehouse to any premises licensed to sell intoxicating liquors at retail which is owned and operated by the same person, firm or corporation and which is located in the same county in which the central warehouse is located, or is located in a county adjoining and contiguous to the county in which the central warehouse is located, but not otherwise; except that private brands of intoxicating liquor owned and sold exclusively by only one (1) person, firm or corporation as set forth in section (1) and brands not privately owned but sold exclusively by only one (1) person, firm or corporation may be transferred from the warehouse to any licensed premises in the state owned by a person, firm or corporation, who is the exclusive retail dealer of the brand; provided, however, that no malt liquor shall be transferred from the central warehouse to another licensed premises unless the licensed premises is located in the same designated geographic area of the wholesaler from whom the malt liquor was purchased. The City of St. Louis shall be deemed to be a county for the purposes of this regulation.

(4) Any person, firm or corporation defined in section (1) desiring to transfer intoxicating liquor from a premises licensed to sell intoxicating liquors at retail owned and controlled by a person, firm or corporation to another premises so licensed and owned and controlled by the same person, firm or corporation, shall first notify the supervisor of liquor control in writing describing the type, brand, size containers and amount of intoxicating liquors to be so transferred, the license numbers of the premises from which and to which the transfer is to be made, and the true reason for the transfer and shall not make the transfer until the supervisor of liquor control shall have assented to the transfer or until three (3) full days (not counting Saturdays, Sundays and holidays) shall have elapsed after the receipt of the notice by the supervisor of liquor control during which time the supervisor of liquor control shall not have refused to allow transfer.

**Regulation No. 70-2.240**  
**Advertising of Intoxicating Liquor**  
**and Nonintoxicating Beer**

*PURPOSE: This rule allows manufacturers of intoxicating liquor to offer consumer rebate coupons and clarifies the advertising regulation as it applies to the advertising of sales price below cost.*

(1) No person engaged in business as a producer, manufacturer, brewer, bottler, importer, wholesaler or retailer of intoxicating liquor or nonintoxicating beer, directly or indirectly, shall publish or disseminate or cause to be published or disseminated in any newspaper, magazine or similar publication any advertisement of intoxicating liquor or nonintoxicating beer, unless the advertisement is in conformity with the regulations.

(A) These provisions shall not apply to the publisher of any newspaper, magazine or similar publication, unless the publisher is engaged in business as a producer, manufacturer, brewer, bottler, importer, wholesaler or retailer of intoxicating liquor or nonintoxicating beer, directly or indirectly.

(2) The term advertisement includes any advertisement through the media of radio, television, motion pictures, newspapers, magazines or similar publications or any sign or outdoor billboard or other printed or graphic matter, except that the term shall not include:

(A) Any label affixed to any container of intoxicating liquor or nonintoxicating beer or any individual covering, carton or other wrapper of a container; and

(B) Any editorial or other reading matter in any periodical or publication or newspaper for the preparation or publication of which no money or other valuable consideration is paid or promised, directly or indirectly, by any person subject to these regulations.

(3) **Mandatory Statements.**

(A) The advertiser shall state the name and address of the producer, manufacturer, bottler, brewer, importer, wholesaler or retailer responsible for its publication.

(B) The advertisement shall contain a conspicuous statement of the class and type or other designation of the product, corresponding with the complete designation which appears on the brand label of the product.

(C) The alcoholic content shall be stated in the manner and form in which it appears on the labels of intoxicating liquor or nonintoxicating beer advertised.

(D) In the case of distilled spirits (other than cordials, liqueurs and specialties) produced by blending or rectification, if neutral spirits have been used in the production of distilled spirits, there shall be stated in the advertisement the percentage of neutral spirits so used and the name of the commodity from which the neutral spirits have been distilled insubstantially the manner and form in which these statements appear on the labels of the distilled spirits advertised. In the case of neutral spirits or of gin produced by a process of continuous distillation, there shall be stated in the advertisement the name of the commodity from which the neutral spirits or gin have been distilled substantially in the manner and form in which this statement appears on the labels of the distilled spirits advertised.

(E) Where an advertisement does not mention a specific product but merely refers to a class of intoxicating liquor or nonintoxicating beer (such as whiskey or beer) and the advertiser markets more than one (1) brand of intoxicating liquor or nonintoxicating beer of that class, or where the advertisement refers to several classes of intoxicating liquor or nonintoxicating beer (such as whiskey, brandy, rum, gin, liqueur, wine, beer, etc.) marketed under a single brand, the only mandatory information prescribed by section (1) applicable to advertisement would be the name and address of the responsible advertiser.

(F) Advertisements by retail establishments which merely refer to the availability of intoxicating liquor or nonintoxicating beer in these establishments, but which otherwise make no reference to a specific brand of intoxicating liquor or nonintoxicating beer shall be subject only to the prohibited statements provisions of section (5) of this rule.

(4) Statements required by these regulations to be stated in any written, printed or graphic advertisement shall appear in lettering or type of a size, kind and color sufficient to render them both conspicuous and readily legible. In particular—

(A) Required information shall be stated against a contrasting background and in type or lettering which is at least the equivalent of eight (8)-point type;

(B) Required information shall be so stated as to appear to be a part of the advertisement and shall not be separated in any manner from the remainder of the advertisement;

(C) Where an advertisement relates to more than one (1) product, the required information shall appear in a manner as to clearly indicate the particular products to which it is applicable; and

(D) Required information shall not be buried or concealed in unrequired descriptive matter or decorative designs.

(5) No advertisement of intoxicating liquor or nonintoxicating beer shall contain:

(A) Any statement that is false or misleading in any material

particular;

(B) Any statement that is disparaging of a competitor's products;

(C) Any statement, design, device or representation which is obscene, indecent, in poor taste or conveys a derogatory connotation;

(D) Any statement design, device or representation of or relating to analyses, standards, or tests, irrespective of falsity, which is likely to mislead the consumer;

(E) Any statement, design, device or representation of or relating to any guarantee, irrespective of falsity, which is likely to mislead the consumer. Nothing in this subsection shall prohibit the use of any enforceable guarantee in substantially the following form: "We will refund the purchase price to the purchaser if s/he is in any manner dissatisfied with the contents of this package";

(F) Any statement that the product is produced, blended, brewed, made, bottled, packaged, sold under or in accordance with any authorization, law or regulation of any municipality, county, state, federal or foreign government unless the statement is required or specifically authorized by the laws or regulations of the government; and, if a municipality, county, state or federal permit number is stated, the permit number shall not be accompanied by an additional statement relating to it;

(G) Any statement offering any coupon, premium, prize, rebate, sales price below cost or discount as an inducement to purchase intoxicating liquor or nonintoxicating beer except, manufacturers of intoxicating liquor other than beer or wine shall be permitted to offer and advertise consumer cash rebate coupons and all manufacturers of intoxicating liquor may offer and advertise coupons for nonalcoholic merchandise in accordance with section 311.355, RSMo;

(H) Any statement offering free delivery or credit terms to consumers, as an inducement to purchase intoxicating liquor or nonintoxicating beer; and

(I) A price that is below the retailer's actual cost.

(6) The advertisement shall not contain any statement concerning a brand or lot of intoxicating liquor or nonintoxicating beer that is inconsistent with any statement on the labeling.

(7) The advertising shall not contain any statement, design or device representing that the use of any intoxicating liquor or nonintoxicating beer has curative or therapeutic effects or tending to create an impression that it does have curative or therapeutic effects.

(8) No advertisement shall contain any statement, design, device or pictorial representation of or relating to, or capable of being construed as relating to the armed forces of the United States or of the American flag, any state flag, or of any emblem, seal, insignia or decoration associated with any such flag or the armed forces of the United States; nor shall any advertisement contain any statement device, design or pictorial representation of or concerning any flag, seal, coat of arms, crest or other insignia, likely to falsely lead the consumer to believe that the product has been endorsed, made or used by or produced for or under the supervision of or in accordance with the specifications of the government, organization, family or individual with whom the flag, seal, coat of arms, crest or insignia is associated.

(9) An advertisement for distilled spirits shall not contain:

(A) The words bond, bottled in bond, aged in bond, or phrases containing these or synonymous terms, unless these words or phrases appear upon the labels of the distilled spirits advertised and are stated in the advertisement in the manner and form in which they appear upon the label;

(B) Any statement, design or device, directly or by implication concerning age or maturity of any brand or lot of distilled spirits unless a

statement of age appears on the labels of the advertised product. When any statement, design or device concerning age or maturity is contained in any advertisement, it shall include (in direct conjunction with the advertisement and with substantially equal conspicuousness) all parts of the statement concerning age and percentages, if any, which appear on the label. However, an advertisement for any whiskey or brandy, which does not bear a statement of age on the label or an advertisement for rum which is four (4) years or more old, may contain general inconspicuous age, maturity or other similar representations, for example aged in wood, mellowed in fine oak cask; and

(C) A representation that intoxicating liquor or nonintoxicating beer was manufactured in or imported from a place or country other than of its actual origin or was produced or processed by one who was not in fact the actual producer or processor.

(10) An advertisement for wine shall not contain:

(A) Any statement of bonded wine cellar or bonded winery numbers unless stated in direct conjunction with the name and address of the person operating the winery or store-room. Statement of bonded wine-cellar and bonded winery numbers may be made in the following form: "Bonded Wine cellar No. . . .," "Bonded Winery No. . . .," "B.W.C. No. . . .," or "B.W. No. . . ." No additional reference to numbers shall be made, nor shall any use be made of a statement that may convey the impression that the wine has been made or matured under United States government or any state government supervision or in accordance with United States government or any state government specifications or standards.

(B) Any statement, design, device or representation which relates to alcoholic content or which tends to create the impression that a wine is unfortified or has been fortified or has intoxicating qualities or contains distilled spirits except for a reference to distilled spirits in a statement of composition where the statement is required by these regulations to appear as a part of the designation of the product.

(11) No statement of age or representation relative to age (including words or devices in any brand name or mark) shall be made, except that—

(A) In the case of vintage wine, the year of vintage may be stated if it appears on the label; and

(B) Truthful references of a general and informative nature relating to methods of production involving storage or aging, for example "This wine has been mellowed in oak casks," "Stored in small barrels" or "Matured at regulated temperatures in our cellars," may be made.

(12) The statement of any bottling date shall not be deemed to be a representation relative to age, if the statement appears without undue emphasis in the following form: "bottled in . . .," (inserting the year in which the wine was bottled).

(13) No date, except as provided in this section and section (12) of this rule with respect to statement of vintage year and bottling date, shall be stated unless, in addition to the year and date, and direct conjunction with the year and date, in the same size and kind of printing there shall be stated an explanation of the significance of the date. If any date refers to the date of establishment of any business, this date shall be stated without undue emphasis and in direct conjunction with the name of the person to whom it refers.

(14) The advertisement shall not represent that the wine was manufactured in, or imported from, a place or country other than that of the actual origin or produced or processed by one who was not in fact the actual producer or processor.

(15) No retail licensee shall advertise for sale any brand of intoxicating liquor or nonintoxicating beer unless s/he has the particular brand and size of container or package of intoxicating liquor or nonintoxicat-

ing beer in his/her licensed premises for sale.

(16) No wholesale licensee shall allow any sign owned by him/her or advertising his/her product to be placed or allowed to remain on or upon any building unless the building has an occupant holding a license issued by the supervisor.

(17) No wholesale or retail licensee shall use any loudspeaker or public address system to advertise intoxicating liquor or nonintoxicating beer.

(18) No producer, manufacturer, brewer, bottler, importer or wholesaler of intoxicating liquor or nonintoxicating beer shall advertise the retail price or suggested retail price of intoxicating liquor or nonintoxicating beer.

#### **Regulation No. 70-2.250 Salvaged Alcoholic Beverages**

*PURPOSE: This rule establishes licensing and procedure for disposal of salvaged alcoholic beverages.*

(1) Alcoholic beverages which are damaged in this state as a result of flood, wreck, fire or similar occurrence may be sold for salvage.

(2) Alcoholic beverages so salvaged may be sold to a Missouri licensee, upon the approval of the supervisor under the following terms and conditions:

(A) Application shall be made to the supervisor for authority to sell distressed merchandise in Missouri. The application shall contain the name of the person desiring to sell the merchandise, the nature of the damage, a description of the merchandise and whether the contemplated sale is to be to a Missouri licensee;

(B) The distressed merchandise shall be examined at the scene of the occurrence, as soon as practicable, by a representative of the Department of Health and the sale shall not be approved by the supervisor until notified by the representative that the merchandise is fit for human consumption;

(C) Written approval and release for the sale of distressed merchandise shall not be issued until an inspection of the distressed merchandise is made by an agent of the Division of Liquor Control who will determine whether the merchandise is within the meaning of this regulation and that all Missouri taxes have been paid;

(D) No merchandise shall be sold under this regulation where the original packages have been so damaged so as to render the label on the package not within the requirements under 11 CSR 70-2.060(1); and

(E) Anyone seeking to sell distressed merchandise shall obtain a permit from the supervisor.

(3) Alcoholic beverages so salvaged shall be referred to as distressed merchandise.

(A) Each container of alcoholic beverage sold pursuant to this regulation shall bear a label, to be provided by the Division of Liquor Control, certifying the merchandise as distressed merchandise.

(B) No distressed merchandise salvaged outside of the state may be imported into Missouri for sale pursuant to this regulation.

#### **Regulation No. 70-2.260 State of Emergency**

*PURPOSE: This rule establishes authority for the supervisor of liquor control when a state of emergency is declared.*

(1) Whenever, pursuant to the Constitution and laws of Missouri, the governor or acting governor of this state shall declare a state of

emergency, call out the organized militia or any portion or individual of the militia to execute or insure obedience to law or declare a state of martial law in any section of this state, all persons, partnerships, associations of persons or corporations licensed under the laws of Missouri to sell, dispense or otherwise deal with intoxicating liquor or nonintoxicating beer, upon notice from the supervisor of liquor control, announced publicly or delivered personally, shall be required to suspend further business under the licenses issued to the persons, partnerships, association of persons or corporations until the time as the supervisor shall determine and so inform the licensees that the proclamation of emergency or crisis as issued by the governor or acting governor has been terminated, provided that the supervisor of liquor control shall specify the geographical limit within the state within which area the licenses shall be suspended.

#### **Regulation No. 70-2.270 Transfer and Registration of Lines or Brands of Spirituous Liquor and Wine**

*PURPOSE: This rule provides procedures for a supplier of spirituous liquor and wine to remove and/or create any additional distributor or any line or brand of product.*

(1) The term supplier, as used in this regulation, shall mean any person, partnership, corporation or other form of business enterprise licensed as a manufacturer, distiller, vintner, rectifier, solicitor (or any employee or agent of the solicitor) which distributes wine or intoxicating liquor containing alcohol in excess of five percent (5%) by weight to duly licensed wholesalers in this state.

(2) The term wholesaler, as used in this regulation, shall mean any person, partnership, corporation or other form of business enterprise (or any employee or agent of the enterprise) licensed to sell wine or intoxicating liquor containing alcohol in excess of five percent (5%) by weight to duly licensed retailers in this state.

(3) No supplier shall encourage, solicit, cause or conspire with a wholesaler to evade or disobey any laws or regulations of the state of Missouri relating to intoxicating liquor. No supplier, directly or indirectly, shall threaten to remove or remove a line or brand from a wholesaler because of the refusal or failure of the wholesaler to evade or disobey any laws or regulations of Missouri relating to intoxicating liquor. Nor shall any supplier, directly or indirectly, threaten to or create an additional distributorship in retaliation against a wholesaler who refuses to evade or disobey any laws or regulations of Missouri relating to intoxicating liquor.

(4) All wholesalers shall register with the supervisor of liquor control, the lines, brands or both of alcoholic beverages which they handle and distribute in this state. No wholesaler shall add an additional line or brand without first filing a statement under oath with the supervisor and with every other wholesaler affected. The statement shall contain the following:

(A) The name of each line or brand of intoxicating liquor or wine which they will handle and distribute in this state and the anticipated date upon which the distribution of the line or brand is to begin;

(B) A certification that this additional line or brand is not being added in collusion with any supplier in retaliation against another wholesaler who refuses to evade or disobey any laws or regulations of Missouri relating to intoxicating liquor; and

(C) Prior to making any sale of any additional line or brand, each wholesaler shall comply with all other requirements relating to the posting of wholesale prices.

(5) Prior to removing a line or brand from one (1) wholesaler and/or prior to creating an additional distributorship on a line or brand, every

supplier shall file with the supervisor a statement under oath containing the following:

(A) The name and address of each wholesaler to whom a line, brand or both is being transferred or added;

(B) The name and address of each wholesaler from whom a line or brand is being removed;

(C) The name of each line or brand to be removed transferred or added; and

(D) A certification that this removal, transfer or creation of an additional distributorship is not in retaliation against any wholesaler who refuses to evade or disobey any existing laws or regulations of Missouri relating to intoxicating liquor.

(6) A copy of this statement shall at the same time be delivered by mail or personal service to every wholesaler affected.

**Regulation No. 70-2.280**  
**Guidelines for Using Minors in Intoxicating Liquor or**  
**Nonintoxicating Beer Investigations**

*PURPOSE: This rule establishes guidelines for the use of minors in intoxicating liquor or nonintoxicating beer investigations by a state, county, municipal or other local law enforcement authority.*

(1) The following shall constitute guidelines for the use of minors in intoxicating liquor or nonintoxicating beer investigations by a state, county, municipal or other local law enforcement authority:

(A) The minor shall be eighteen (18) or nineteen (19) years of age;

(B) The minor shall have a youthful appearance and the minor, if a male, shall not have facial hair or a receding hairline; if a female, shall not wear excessive makeup or excessive jewelry. The minor, male or female, shall not wear headgear that will obstruct a clear view of the face or hairline;

(C) The minor shall carry his or her own identification showing the minor's correct date of birth and shall, upon request, produce such identification to the seller of the intoxicating liquor or nonintoxicating

beer at the licensed establishment; and the state, county, municipal or other local law enforcement agency shall search the minor prior to the operation to ensure that the minor is not in possession of any other valid or fictitious identification;

(D) The minor shall answer truthfully any questions about his or her age and shall not remain silent when asked questions regarding his or her age, nor misrepresent anything in order to induce a sale of intoxicating liquor or nonintoxicating beer;

(E) The state, county, municipal or other local law enforcement agency shall make a photocopy of the minor's valid identification showing the minor's correct date of birth;

(F) Any attempt by such minor to purchase intoxicating liquor or nonintoxicating beer products shall be videotaped or audio taped with equipment sufficient to record all statements made by the minor and the seller of the intoxicating liquor or nonintoxicating beer product;

(G) The minor shall not be employed by the state, county, municipal or other local law enforcement agency on an incentive or quota basis;

(H) If a violation occurs, the state, county, municipal or other local law enforcement agency shall, within two (2) hours, make reasonable efforts to confront the seller, if practical, and further, within forty-eight (48) hours, contact or take all reasonable steps to contact the owner or manager of the establishment;

(I) The state, county, municipal or other local law enforcement agency shall maintain records of each visit to an establishment where a minor is used by the state, county, municipal or other local law enforcement agency for a period of at least one (1) year following the incident, regardless of whether a violation occurs at each visit, and such records shall, at a minimum, include the following information:

1. A photograph of the minor taken immediately prior to the operation;
2. A photocopy of the minor's valid identification, showing the minor's correct date of birth;
3. An Information and Consent document, included herein, completed by the minor in advance of the operation in the following form:



### Minor Information and Consent

State of Missouri) COUNTY of \_\_\_\_\_)

Before me, the undersigned authority, on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, personally appeared \_\_\_\_\_, who by me is known and who after being by me first duly sworn did depose and state:

1. I am \_\_\_\_\_, a minor, and was born on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_.  
My address is \_\_\_\_\_.  
My driver's license number is \_\_\_\_\_ in the State of \_\_\_\_\_.  
My Social Security number is \_\_\_\_\_.  
My parents'/legal guardians' names are \_\_\_\_\_.  
My home telephone number is \_\_\_\_\_.
2. I do hereby agree to assist the \_\_\_\_\_ in the investigation of offenses involving the unlawful sale of intoxicating liquor or nonintoxicating beer products in this state. I understand that I will be entering locations, in which intoxicating liquor or nonintoxicating beer products are sold and that I will attempt to purchase intoxicating liquor or nonintoxicating beer products, but only under the direction and supervision of agents of the \_\_\_\_\_.
3. I understand that I may wear an audio recording or transmitting device, which will record or transmit oral conversations, while I am attempting the purchase of intoxicating liquor or nonintoxicating beer products, and I consent to wearing such. I also consent to the video recording of my activities during these attempts.
4. I understand and agree that I may be required to appear and testify in court and/or in an administrative proceeding concerning the purchase of intoxicating liquor or nonintoxicating beer products or other criminal or administrative violations and that said appearance and testimony may be required in Jefferson City or another location in this state.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

Notary Public

4. The name of each establishment visited by the minor, and the date and time of each visit;
5. The audiotape or videotape specified in subsection (1) (F) above; and
6. A written Minor Report in the following form:

### Minor Report

Date of Purchase: \_\_\_\_\_ Time of Purchase: \_\_\_\_\_ a.m./p.m.

Name of Establishment: \_\_\_\_\_

Address: (street and city) \_\_\_\_\_ (County) \_\_\_\_\_

Approximate Age of Seller: \_\_\_\_\_ Sex of Seller: \_\_\_\_\_ - \_\_\_\_\_

Hair Color of Seller: \_\_\_\_\_ Clothing of Seller: \_\_\_\_\_

Seller's Actions (did or did not ask for I.D.): \_\_\_\_\_

Description of Product and Brand Purchased: \_\_\_\_\_

Quantity: \_\_\_\_\_ Price: \_\_\_\_\_

Conversation with Seller: \_\_\_\_\_

Other Details: \_\_\_\_\_

Minor's Signature: \_\_\_\_\_

(J) The state, county, municipal or other local law enforcement agency must provide pre-recorded currency to the minor, to be used in the operation, and, if a violation occurs, must make all reasonable efforts to retrieve the pre-recorded currency. If a violation occurs, said agency shall further secure and inventory any intoxicating liquor or nonintoxicating beer products purchased; and

(K) The state, county, municipal or other local law enforcement agency must, in advance of the operation, train the minor who will be used in the operation, which training shall, at a minimum, include i) instruction to enter the designated establishment and to proceed immediately to attempt to purchase intoxicating liquor or nonintoxicating beer products; ii) instruction to provide the minor's valid identification upon a request for identification by the seller; iii) instruction to answer truthfully all questions about age; iv) instruction not to lie to the seller to induce a sale of intoxicating liquor or nonintoxicating beer products; v) instruction on the use of pre-recorded currency; and vi) instruction on the other matters set out in this regulation.

(2) The supervisor of alcohol and tobacco control shall not participate with any state, county, municipal, or other local law enforcement agency, nor discipline any licensed establishment when any state, county, municipal, or other law enforcement agency chooses not to follow the supervisor's permissive standards.

*AUTHORITY: section 311.722, RSMo Supp. 2005. Original rule filed Jan. 13, 2006, effective Aug. 30, 2006.*

*\*Original authority: 311.722, RSMo 2005.*

**Schedule of Pro-Rated Fees**

July – June 30	\$300.00	\$250.00	\$200.00	\$100.00	\$60.00	\$50.00	\$25.00	\$10.00	\$500.00	\$600.00
August – June 30	275.00	229.17	183.33	91.67	55.00	45.83	22.92	9.17	\$458.33	\$550.00
Sept – June 30	250.00	208.33	166.67	83.33	50.00	41.67	20.83	8.33	\$416.67	\$500.00
Oct – June 30	225.00	187.50	150.00	75.00	45.00	37.50	18.75	7.50	\$375.00	\$450.00
Nov – June 30	200.00	166.67	133.33	66.67	40.00	33.33	16.67	6.67	\$333.33	\$400.00
Dec – June 30	175.00	145.83	116.67	58.33	35.00	29.17	14.58	5.83	\$291.67	\$350.00
Jan – June 30	150.00	125.00	100.00	50.00	30.00	25.00	12.50	5.00	\$250.00	\$300.00
Feb – June 30	125.00	104.17	83.32	41.67	25.00	20.82	10.42	4.17	\$208.32	\$250.00
March – June 30	100.00	83.33	66.67	33.33	20.00	16.67	8.33	3.33	\$166.67	\$200.00
April – June 30	75.00	62.50	50.00	25.00	15.00	12.50	6.25	2.50	\$125.00	\$150.00
May – June 30	50.00	41.67	33.33	16.67	10.00	8.33	4.17	1.67	\$83.33	\$100.00
June 1 – June 30	25.00	20.83	16.67	8.33	5.00	4.17	2.08	.83	\$41.67	\$50.00

NOTE: On approval of the application and payment of the license fee herein provided, the Supervisor of Alcohol and Tobacco Control shall grant the applicant a license to do business in the State for a term to expire with the thirtieth day of June next succeeding the date of such license. Of the license tax to be paid for any such license, the applicant shall pay as many twelfths as there are months (part of a month is counted as a month) remaining from the date of license to the next succeeding June 30. Applications for renewal of licenses must be filed on or before the first day of May of each calendar year.

<b>CODE</b>	<b>LICENSE DESCRIPTION</b>	<b>FEE</b>	<b>CODE</b>	<b>LICENSE DESCRIPTION</b>	<b>FEE</b>
<b>RBD</b>	Retail Liquor By the Drink	\$300.00	<b>VWS</b>	Vintage Wine Solicitor	\$500.00
<b>RBDR</b>	Retail Liquor By the Drink Resort	\$300.00	<b>RBDP</b>	Retail Liquor By Drink Picnic (7 days)	\$25.00
<b>RBDE</b>	Retail Liquor By the Drink Exempt	\$300.00	<b>5WP</b>	5% Beer by Drink Wine Picnic (6/15 to 7/15) - (7 days)	\$100.00
<b>RBDB</b>	Retail Liquor By the Drink Boat	\$300.00	<b>RBDC</b>	Retail Liquor By Drink Caterer (per day)	\$10.00
<b>RBDM</b>	Retail Liquor By the Drink Mall	\$300.00	<b>RDC1</b>	Caterer Retail by Drink Unlimited	\$1,000.00
<b>RBDK</b>	Retail Liquor By the Drink Entertainment	\$300.00	<b>RDC5</b>	Caterer Retail by Drink - 50 days	\$500.00
<b>RBDF</b>	Retail Liquor By the Drink - Festival	\$300.00	<b>5BWC</b>	5% Beer Wine Caterer (per day)	\$10.00
<b>5BD</b>	5% By Drink (includes Sunday)	\$50.00	<b>OPL</b>	Original Package Liquor	\$100.00
<b>5BDW</b>	5% By Drink Wine	\$50.00	<b>5OP</b>	Original Package 5% Beer (-includes Sunday)	\$50.00
<b>5SBD</b>	5% Sunday by the Drink	\$200.00	<b>OPT</b>	Original Package Tasting	\$25.00
<b>RR</b>	Railroad (\$1.00 per duplicate)	\$100.00	<b>COL</b>	Consumption of Intoxicating Liquor	\$60.00
<b>SBDC</b>	Sunday by Drink-Convention	\$600.00	<b>TRNS</b>	Transportation	\$10.00
<b>SBD</b>	Sunday By Drink	\$200.00	<b>LMS</b>	Liquor Manufacturer Solicitor	\$450.00
<b>SPST</b>	Sports Stadium	\$300.00	<b>22MS</b>	22% Manufacturer Solicitor	\$200.00
<b>SOP</b>	Sunday Original Package Liquor	\$200.00	<b>5MS</b>	5% Manufacturer Solicitor	\$250.00
<b>EXTH</b>	Extended Hours	\$300.00	<b>LS</b>	Liquor Solicitor	\$250.00
<b>EHM</b>	Extended Hours Mall	\$300.00	<b>22S</b>	22% Solicitor	\$100.00
<b>EHHL</b>	Extended Hours for Historic Landmark	\$300.00	<b>5S</b>	5% Solicitor	\$50.00
<b>EHSL</b>	Extended Hours St. Louis Airport				
<b>RBDT</b>	Retail Liquor By Drink Resort Temporary (90 days)	\$ 75.00	<b>LWS</b>	Liquor Wholesale Solicitor	\$500.00
<b>RDSR</b>	Retail Liquor By Drink Seasonal Resort (per month)	\$ 25.00	<b>22WS</b>	22% Wholesale Solicitor	\$200.00
<b>RDST</b>	Retail Liquor By Drink Seasonal R Temp (90 days)	\$ 75.00	<b>5WS</b>	5% Wholesale Solicitor	\$100.00
<b>SF1</b>	State Fair 5% By Drink DOMW	\$100.00	<b>DOMW</b>	Domestic Wine (per 500 gallon)	\$5.00
<b>SF3</b>	State Fair 5% By Drink DOMW (exhibition/grandstand)	\$300.00	<b>MICB</b>	Microbrewery (per 100 gallon)	\$5.00
<b>VWA</b>	Vintage Wine Auction	\$500.00	<b>MWBD</b>	Missouri Wine By Drink	\$300.00
<b>VWAM</b>	Vintage Wine Auction/Municipality	\$50.00	<b>ACL</b>	Alcohol Carrier License	no fee
			<b>WDS</b>	Wine Direct Shipper	no fee

**TOBACCO ENFORCEMENT LAW**

***Chapter 407, RSMo  
Merchandising Practices - Tobacco Products -  
Sales to Minors Prohibited***

**STATE OF MISSOURI**

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## Chapter 407

### Merchandising Practices

#### **Tobacco Products- Sales to Minors Prohibited, Regulation**

Sections:

- 407.924. Division of liquor control to enforce underage tobacco sales--annual report submitted.
- 407.925. Definitions.
- 407.926. No tobacco sales to minors--penalties--alternative nicotine products and vapor products, sale to minors prohibited--nicotine liquid containers, requirements, penalty.
- 407.927. Required sign stating violation of state law to sell tobacco, alternative nicotine products, or vapor products to minors under age 18--display of sign required on displays and vending machines.
- 407.928. Restrictions on sales of individual packs of cigarettes.
- 407.929. Proof of age required, when--defense to action for violation is reasonable reliance on proof--liability.
- 407.931. Unlawful to sell or distribute tobacco products, alternative nicotine products, or vapor products to minors--vending machine requirements--what persons are liable--owners exempt, when--appeal to administrative hearing commission, when.
- 407.932. Political subdivisions may make more stringent rules.
- 407.933. Minors employed by division of liquor control may purchase cigarettes for enforcement purposes--misrepresentation of age, penalty.
- 407.934. Sales tax license required to sell tobacco products--division of liquor control to have inspection authority--limitations on use of minors for enforcement purposes.

#### **407.924. Division of liquor control to enforce underage tobacco sales--annual report submitted.**

1. The division of liquor control within the department of public safety shall implement and enforce the provisions of sections 407.925 to 407.934.

2. Beginning January 1, 2003, the division of liquor control shall submit an annual report to the general assembly on the effectiveness of sections 407.925 to 407.934 in reducing tobacco possession by minors and the enforcement activities by the division for violations of sections 407.925 to 407.934.

(L. 2001 H.B. 381)

#### **407.925. Definitions.**

(1) "Alternative nicotine product", any noncombustible product containing nicotine that is intended for human consumption, whether chewed, absorbed, dissolved, or ingested by any other means. Alternative nicotine product does not include any vapor product, tobacco product or any product regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Food, Drug, and Cosmetic Act;

(2) "Center of youth activities", any playground, school or other facility, when such facility is being used primarily by persons under the age of eighteen for recreational, educational or other purposes;

(3) "Distribute", a conveyance to the public by sale, barter, gift or sample;

(4) "Minor", a person under the age of eighteen;

(5) "Municipality", the city, village or town within which tobacco products, alternative nicotine products or vapor products are sold or distributed or, in the case of tobacco products, alternative nicotine products or vapor products that are not sold or distributed within a city, village or town, the county in which they are sold or distributed;

(6) "Person", an individual, partnership, copartnership, firm, company, public or private corporation, association, joint stock company, trust, estate, political subdivision or any agency, board, department or bureau of the state or federal government, or any other legal entity which is recognized by law as the subject of rights and duties;

(7) "Proof of age", a driver's license or other generally accepted means of identification that contains a picture of the individual and appears on its face to be valid;

(8) "Rolling papers", paper designed, manufactured, marketed, or sold for use primarily as a wrapping or enclosure for tobacco, which enables a person to roll loose tobacco into a smokable cigarette;

(9) "Sample", a tobacco product, alternative nicotine product, or vapor product distributed to members of the general public at no cost or at nominal cost for product promotional purposes;

(10) "Sampling", the distribution to members of the general public of tobacco product, alternative nicotine product or vapor product samples;

(11) "Tobacco products", any substance containing tobacco leaf, including, but not limited to, cigarettes, cigars, pipe tobacco, snuff, chewing tobacco, or dipping tobacco but does not include alternative nicotine products, or vapor products;

(12) "Vapor product", any noncombustible product containing nicotine that employs a heating element, power source, electronic circuit, or other electronic, chemical or mechanical means, regardless of shape or size, that can be used to produce vapor from nicotine in a solution or other form. Vapor product includes any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and any vapor cartridge or other container of nicotine in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. Vapor product does not include any alternative nicotine product or tobacco product;

(13) "Vending machine", any mechanical electric or electronic, self-service device which, upon insertion of money, tokens or any other form of payment, dispenses tobacco products, alternative nicotine products, or vapor products.

(L. 1992 S.B. 509, et al. § 7, A.L. 2014 S.B. 841)

\*Effective 10-10-14, see § 21.250. S.B. 841 was vetoed July 14, 2014. The veto was overridden on September 10, 2014.

#### **407.926. No tobacco sales to minors--penalties--alternative nicotine products and vapor products, sale to minors prohibited--nicotine liquid containers, requirements, penalty.**

1. Any person or entity who sells tobacco products, alternative nicotine products, or vapor products shall deny the sale of such tobacco

products to any person who is less than eighteen years of age.

2. Any person or entity who sells or distributes tobacco products, alternative nicotine products, or vapor products by mail or through the internet in this state in violation of subsection 1 of this section shall be assessed a fine of two hundred fifty dollars for the first violation and five hundred dollars for each subsequent violation.

3. Alternative nicotine products and vapor products shall only be sold to persons eighteen years of age or older, shall be subject to local and state sales tax, but shall not be otherwise taxed or regulated as tobacco products.

4. (1) Any nicotine liquid container that is sold at retail in this state shall satisfy the child-resistant effectiveness standards set forth in 16 CFR 1700.15(b) as in effect on August 28, 2015, when tested in accordance with the method described in 16 CFR 1700.20 as in effect on August 28, 2015.

(2) For the purposes of this subsection, "nicotine liquid container" shall mean a bottle or other container of liquid or other substance containing nicotine if the liquid or substance is sold, marketed, or intended for use in a vapor product. A "nicotine liquid container" shall not include a liquid or other substance containing nicotine in a cartridge that is sold, marketed, or intended for use in a vapor product, provided that such cartridge is prefilled and sealed by the manufacturer and not intended to be opened by the consumer.

(3) Any person who engages in retail sales of liquid nicotine containers in this state in violation of this subsection shall be assessed a fine of two hundred fifty dollars for the first violation and five hundred dollars for each subsequent violation.

(4) The department of health and senior services may adopt rules necessary to carry out the provisions of this subsection. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2015, shall be invalid and void.

(5) The provisions of this subsection and any rules adopted hereunder shall be null, void, and of no force and effect upon the effective date of the final regulations issued by the federal Food and Drug Administration or from any other federal agency if such regulations mandate child-resistant effectiveness standards for nicotine liquid containers.

(L. 2001 H.B. 381, A.L. 2014 S.B. 841, A.L. 2015 H.B. 531)

**407.927. Required sign stating violation of state law to sell tobacco, alternative nicotine products, or vapor products to minors under age 18--display of sign required on displays and vending machines.**

1. The owner of an establishment at which tobacco products, alternative nicotine products, vapor products, or rolling papers are sold at retail or through vending machines shall cause to be prominently displayed in a conspicuous place at every display from which tobacco products, alternative nicotine products, or vapor products are sold and

on every vending machine where tobacco products are purchased a sign that shall:

(1) Contain in red lettering at least one-half inch high on a white background the following: "It is a violation of state law for cigarettes, other tobacco products, alternative nicotine products, or vapor products to be sold or otherwise provided to any person under the age of eighteen or for such person to purchase, attempt to purchase or possess cigarettes, other tobacco products, alternative nicotine products or vapor products."; and

(2) Include a depiction of a pack of cigarettes at least two inches high defaced by a red diagonal diameter of a surrounding red circle, and the words "Under 18".

(L. 1992 S.B. 509, et al. § 9, A.L. 2001 H.B. 381, A.L. 2014 S.B. 841)

\*Effective 10-10-14, see § 21.250. S.B. 841 was vetoed July 14, 2014. The veto was overridden on September 10, 2014.

**407.928. Restrictions on sales of individual packs of cigarettes.** No person or entity shall sell individual packs of cigarettes or smokeless tobacco products unless such packs satisfy one of the following conditions prior to the time of sale:

(1) It is sold through a vending machine; or

(2) It is displayed behind the check-out counter or it is within the unobstructed line of sight of the sales clerk or store attendant from the checkout counter.

(L. 2001 H.B. 381)

**407.929. Proof of age required, when--defense to action for violation is reasonable reliance on proof--liability.**

1. A person or entity selling tobacco products, alternative nicotine products, or vapor products or rolling papers or distributing tobacco product, alternative nicotine product, or vapor product samples shall require proof of age from a prospective purchaser or recipient if an ordinary person would conclude on the basis of appearance that such prospective purchaser or recipient may be under the age of eighteen.

2. The operator's or chauffeur's license issued pursuant to the provisions of section 302.177, or the operator's or chauffeur's license issued pursuant to the laws of any state or possession of the United States to residents of those states or possessions, or an identification card as provided for in section 302.181, or the identification card issued by any uniformed service of the United States, or a valid passport shall be presented by the holder thereof upon request of any agent of the division of liquor control or any owner or employee of an establishment that sells tobacco, alternative nicotine products, or vapor products, for the purpose of aiding the registrant, agent or employee to determine whether or not the person is at least eighteen years of age when such person desires to purchase or possess tobacco products, alternative nicotine products, or vapor products procured from a registrant. Upon such presentation, the owner or employee of the establishment shall compare the photograph and physical characteristics noted on the license, identification card or passport with the physical characteristics of the person presenting the license, identification card or passport.

3. Any person who shall, without authorization from the department of revenue, reproduce, alter, modify or misrepresent any chauffeur's license, motor vehicle operator's license or identification card shall be deemed guilty of a misdemeanor and upon conviction shall be subject to a fine of not more than one thousand dollars, and confinement for not

more than one year, or by both such fine and imprisonment.

4. Reasonable reliance on proof of age or on the appearance of the purchaser or recipient shall be a defense to any action for a violation of subsections 1, 2 and 3 of section 407.931. No person shall be liable for more than one violation of subsections 2 and 3 of section 407.931 on any single day.

(L. 1992 S.B. 509, et al. §§ 11, 13, A.L. 2001 H.B. 381, A.L. 2014 S.B. 841)

\*Effective 10-10-14, see § 21.250. S.B. 841 was vetoed July 14, 2014. The veto was overridden on September 10, 2014.

**407.931. Unlawful to sell or distribute tobacco products, alternative nicotine products, or vapor products to minors--vending machine requirements--what persons are liable--owners exempt, when--appeal to administrative hearing commission, when.**

1. It shall be unlawful for any person to sell, provide or distribute tobacco products, alternative nicotine products, or vapor products to persons under eighteen years of age.

2. All vending machines that dispense tobacco products, alternative nicotine products, or vapor products shall be located within the unobstructed line of sight and under the direct supervision of an adult responsible for preventing persons less than eighteen years of age from purchasing any tobacco product, alternative nicotine product, or vapor product from such machine or shall be equipped with a lock-out device to prevent the machines from being operated until the person responsible for monitoring sales from the machines disables the lock. Such locking device shall be of a design that prevents it from being left in an unlocked condition and which will allow only a single sale when activated. A locking device shall not be required on machines that are located in areas where persons less than eighteen years of age are not permitted or prohibited by law. An owner of an establishment whose vending machine is not in compliance with the provisions of this subsection shall be subject to the penalties contained in subsection 5 of this section. A determination of noncompliance may be made by a local law enforcement agency or the division of liquor control. Nothing in this section shall apply to a vending machine if located in a factory, private club or other location not generally accessible to the general public.

3. No person or entity shall sell, provide or distribute any tobacco product, alternative nicotine product, or vapor product or rolling papers to any minor, or sell any individual cigarettes to any person in this state. This subsection shall not apply to the distribution by family members on property that is not open to the public.

4. Any person including, but not limited to, a sales clerk, owner or operator who violates subsection 1, 2 or 3 of this section or section 407.927 shall be penalized as follows:

- (1) For the first offense, twenty-five dollars;
- (2) For the second offense, one hundred dollars;
- (3) For a third and subsequent offense, two hundred fifty dollars.

5. Any owner of the establishment where tobacco products, alternative nicotine products, or vapor products are available for sale who violates subsection 3 of this section, in addition to the penalties established in subsection 4 of this section, shall be penalized in the following manner:

(1) For the first violation per location within two years, a reprimand shall be issued by the division of liquor control;

(2) For the second violation per location within two years, the division of liquor control shall issue a citation prohibiting the outlet from selling tobacco products, alternative nicotine products, or vapor products for a twenty-four-hour period;

(3) For the third violation per location within two years, the division of liquor control shall issue a citation prohibiting the outlet from selling tobacco products, alternative nicotine products, or vapor products for a forty-eight-hour period;

(4) For the fourth and any subsequent violations per location within two years, the division of liquor control shall issue a citation prohibiting the outlet from selling tobacco products for a five-day period.

6. Any owner of the establishment where tobacco products are available for sale who violates subsection 3 of this section shall not be penalized pursuant to this section if such person documents the following:

(1) An in-house or other tobacco compliance employee training program was in place to provide the employee with information on the state and federal regulations regarding sales of tobacco products, alternative nicotine products, or vapor products to minors. Such training program must be attended by all employees who sell tobacco products, alternative nicotine products, or vapor products to the general public;

(2) A signed statement by the employee stating that the employee has been trained and understands the state laws and federal regulations regarding the sale of tobacco products, alternative nicotine products, or vapor products to minors; and

(3) Such in-house or other tobacco compliance training meets the minimum training criteria, which shall not exceed a total of ninety minutes in length, established by the division of liquor control.

7. The exemption in subsection 6 of this section shall not apply to any person who is considered the general owner or operator of the outlet where tobacco products, alternative nicotine products, or vapor products are available for sale if:

(1) Four or more violations per location of subsection 3 of this section occur within a one-year period; or

(2) Such person knowingly violates or knowingly allows his or her employees to violate subsection 3 of this section.

8. If a sale is made by an employee of the owner of an establishment in violation of sections 407.925 to 407.934, the employee shall be guilty of an offense established in subsections 1, 2 and 3 of this section. If a vending machine is in violation of section 407.927, the owner of the establishment shall be guilty of an offense established in subsections 3 and 4 of this section. If a sample is distributed by an employee of a company conducting the sampling, such employee shall be guilty of an offense established in subsections 3 and 4 of this section.

9. A person cited for selling, providing or distributing any tobacco product, alternative nicotine product, or vapor product to any individual less than eighteen years of age in violation of subsection 1, 2 or 3 of this section shall conclusively be presumed to have reasonably relied on proof of age of the purchaser or recipient, and such person shall not be found guilty of such violation if such person raises and proves as an affirmative defense that such individual presented a driver's license or other government-issued photo identification purporting to establish that such individual was eighteen years of age or older.

10. Any person adversely affected by this section may file an appeal



with the administrative hearing commission which shall be adjudicated pursuant to the procedures established in chapter 621.

(L. 1992 S.B. 509, et al. §§ 8, 10, 12, A.L. 2001 H.B. 381, A.L. 2014 S.B. 841)

\*Effective 10-10-14, see § 21.250. S.B. 841 was vetoed July 14, 2014. The veto was overridden on September 10, 2014.

#### **407.932. Political subdivisions may make more stringent rules.**

Nothing in sections 407.925 to 407.932 shall prohibit local political subdivisions from enacting more stringent ordinances or rules.

(L. 1992 S.B. 509, et al. § 14)

#### **407.933. Minors employed by division of liquor control may purchase tobacco products, alternative nicotine products, or vapor products for enforcement purposes--misrepresentation of age, penalty.**

1. No person less than eighteen years of age shall purchase, attempt to purchase or possess cigarettes, other tobacco products, alternative nicotine products, or vapor products unless such person is an employee of a seller of cigarettes, tobacco products, alternative nicotine products, or vapor products and is in such possession to effect a sale in the course of employment, or an employee of the division of liquor control for enforcement purposes pursuant to subsection 5 of section 407.934.

2. Any person less than eighteen years of age shall not misrepresent his or her age to purchase cigarettes, tobacco products, alternative nicotine products, or vapor products.

3. Any person who violates the provisions of this section shall be penalized as follows:

(1) For the first violation, the person is guilty of an infraction and shall have any cigarettes, tobacco products, alternative nicotine products, or vapor products confiscated;

(2) For a second violation and any subsequent violations, the person is guilty of an infraction, shall have any cigarettes, tobacco products, alternative nicotine products, or vapor products confiscated and shall complete a tobacco education or smoking cessation program, if available.

(L. 2001 H.B. 381, A.L. 2014 S.B. 841)

\*Effective 10-10-14, see § 21.250. S.B. 841 was vetoed July 14, 2014. The veto was overridden on September 10, 2014.

#### **407.934. Sales tax license required to sell tobacco products, alternative nicotine products, or vapor products--division of liquor control to have inspection authority--limitations on use of minors for enforcement purposes.**

1. No person shall sell cigarettes, tobacco products, alternative nicotine products, or vapor products unless the person has a retail sales tax license.

2. The department of revenue shall permit persons to designate through the internet or by including a place on all sales tax license applications for the applicant to designate himself or herself as a seller of tobacco products, alternative nicotine products, or vapor products and to provide a list of all locations where the applicant sells such products.

3. On or before July first of each year, the department of revenue shall make available to the division of liquor control and the department of mental health a complete list of every establishment which sells

cigarettes, other tobacco products, alternative nicotine products, or vapor products in this state.

4. The division of liquor control shall have the authority to inspect stores and tobacco outlets for compliance with all laws related to access of tobacco products, alternative nicotine products, or vapor products to minors. The division may employ a person seventeen years of age, with parental consent, to attempt to purchase tobacco for the purpose of inspection or enforcement of tobacco laws.

5. The supervisor of the division of liquor control shall not use minors to enforce the provisions of this chapter unless the supervisor promulgates rules that establish standards for the use of minors. The supervisor shall establish mandatory guidelines for the use of minors in investigations by a state, county, municipal or other local law enforcement authority which shall be followed by such authority and which shall, at a minimum, provide for the following:

(1) The minor shall be seventeen years of age;

(2) The minor shall have a youthful appearance, and the minor, if a male, shall not have facial hair or a receding hairline and if a female, shall not wear excessive makeup or excessive jewelry;

(3) The state, county, municipal or other local law enforcement agency shall obtain the consent of the minor's parent or legal guardian before the use of such minor on a form approved by the supervisor;

(4) The state, county, municipal or other local law enforcement agency shall make a photocopy of the minor's valid identification showing the minor's correct date of birth;

(5) Any attempt by such minor to purchase tobacco products, alternative nicotine products, or vapor products shall be videotaped or audiotaped with equipment sufficient to record all statements made by the minor and the seller of the tobacco product;

(6) The minor shall carry his or her own identification showing the minor's correct date of birth and shall, upon request, produce such identification to the seller of the tobacco product, alternative nicotine product, or vapor product;

(7) The minor shall answer truthfully any questions about his or her age and shall not remain silent when asked questions regarding his or her age;

(8) The minor shall not lie to the seller of the tobacco product, alternative nicotine product, or vapor product to induce a sale of tobacco products;

(9) The minor shall not be employed by the state, county, municipal or other local law enforcement agency on an incentive or quota basis;

(10) The state, county, municipal or other local law enforcement agency shall, within forty-eight hours, contact or take all reasonable steps to contact the owner or manager of the establishment if a violation occurs;

(11) The state, county, municipal or other local law enforcement agency shall maintain records of each visit to an establishment where a minor is used by the state, county, municipal or other local law enforcement agency for a period of at least one year following the incident, regardless of whether a violation occurs at each visit, and such records shall, at a minimum, include the following information:

(a) The signed consent form of the minor's parent or legal guardian;

(b) A Polaroid photograph of the minor;

(c) A photocopy of the minor's valid identification, showing the minor's correct date of birth;

(d) An information sheet completed by the minor on a form approved by the supervisor; and

(e) The name of each establishment visited by the minor, and the date and time of each visit.

6. If the state, county, municipal or other local law enforcement authority uses minors in investigations or in enforcing or determining

violations of this chapter or any local ordinance and does not comply with the mandatory guidelines established by the supervisor of liquor control in subsection 5 of this section, the supervisor of liquor control shall not take any disciplinary action against the establishment or seller pursuant to this chapter based on an alleged violation discovered when using a minor and shall not cooperate in any way with the state, county, municipal or other local law enforcement authority in prosecuting any alleged violation discovered when using a minor.

(L. 2001 H.B. 381, A.L. 2014 S.B. 841)

\*Effective 10-10-14, see § 21.250. S.B. 841 was vetoed July 14, 2014. The veto was overridden on September 10, 2014.

## Chapter 407 Merchandising Practices - Tobacco Products

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**TOBACCO ENFORCEMENT**

***Rules and Regulations of the  
Supervisor of Alcohol and Tobacco Control***

**11 CSR 70-3**

**STATE OF MISSOURI**

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**Rules of**

**Department of Public Safety**

**Division 70—Division of Liquor Control**

**Chapter 3—Tobacco Regulations**

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**Title 11—DEPARTMENT OF PUBLIC SAFETY Division  
70—Division of Liquor Control**

**Chapter 3—Tobacco Regulations**

**11 CSR 70-3.010 Retailer Employee Tobacco Training Criteria**

*PURPOSE: This rule establishes training criteria for retailers and employees selling tobacco products.*

(1) Minimum retailer employee tobacco training, as referenced in section 407.931.6, RSMo, shall not exceed a total of ninety (90) minutes in length and shall cover the following criteria:

(A) State laws set out in sections 407.926, RSMo, et seq.;

(B) Federal regulations pertaining to retail sales of tobacco products, set out in 21 CFR Part 897;

(C) What constitutes a valid identification as set out in section 407.929.2, RSMo;

(D) How to determine the validity of an identification and to detect fake, invalid and/or altered identifications; and

(E) The refusal and denial of the sale of tobacco products to a minor or to someone without proper identification.

(2) An owner of an establishment where tobacco products are available for sale may claim the exemption of section 407.931.6, RSMo if said owner had in place an in-house or other tobacco compliance employee training program meeting the criteria in section

(1) above and the training was attended by all employees who sell tobacco products to the general public.

(3) Each employee attending the training shall sign and date a certification upon completion of the training stating that the employee has been trained and understands the state laws and federal regulations regarding the sale of tobacco products. This certification shall be presented to the supervisor of liquor control upon request.

**AUTHORITY:** section 407.931.6(3), RSMo Supp. 2001.\* Original rule filed Sept. 27, 2001, effective March 30, 2002.

\*Original authority: 407.931, RSMo 1992, amended 2001.

**11 CSR 70-3.020 Guidelines for Sting Operations**

*PURPOSE: This rule establishes guidelines for the use of minors in tobacco investigations by a state, county, municipal or other local law enforcement authority.*

(1) The following shall constitute guidelines for the use of minors in tobacco investigations by a state, county, municipal or other local law enforcement authority:

(A) The minor shall be seventeen (17) years of age;

(B) The minor shall have a youthful appearance, and the minor, if a male, shall not have facial hair or a receding hairline and, if a female, shall not wear excessive makeup or excessive jewelry;

(C) The state, county, municipal or other local law enforcement agency shall obtain the consent of the minor's parent or legal guardian before the use of such minor on a document in the following form:

**Parent/Legal Guardian Authorization and Consent**

State of Missouri       )  
COUNTY of \_\_\_\_\_)

Before me, the undersigned authority, on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, personally appeared \_\_\_\_\_, who by me is known and who after being by me first duly sworn did depose and state:

1. I am the mother/father/legal guardian of \_\_\_\_\_, a minor, and said minor was born on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

2. I do hereby give consent for my said minor child to assist the \_\_\_\_\_ in the investigation of offenses involving the unlawful sale of tobacco products in this state. I understand that my child will be entering locations in which tobacco products are sold and that my child will attempt to purchase tobacco products, but only under the direction and supervision of agents of the \_\_\_\_\_.

3. I understand that my child may wear an audio recording or transmitting device which will record or transmit oral conversations while my child is attempting the purchase of tobacco products, and I consent to my child wearing such. I also consent to the video recording of my child's activities during these attempts.

4. I understand and agree that my child may be required to appear and testify in court and/or in an administrative proceeding concerning the purchase of tobacco products or other criminal or administrative violations and that said appearance and testimony may be required in Jefferson City or another location in this state.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
Notary Public

(D) The state, county, municipal or other local law enforcement agency shall make a photocopy of the minor's valid identification showing the minor's correct date of birth;

(E) Any attempt by such minor to purchase tobacco products shall be videotaped or audio taped with equipment sufficient to record all statements made by the minor and the seller of the tobacco product;

(F) The minor shall carry his or her own identification showing the minor's correct date of birth and shall, upon request, produce such identification to the seller of the tobacco product, and the state, county, municipal or other local law enforcement agency shall search the minor prior to the operation to ensure that the minor is not in possession of any other valid or fictitious identification;

(G) The minor shall answer truthfully any questions about his or her age and shall not remain silent when asked questions regarding his or her age;

(H) The minor shall not lie to the seller of the tobacco product to induce a sale of tobacco products;

(I) The minor shall not be employed by the state, county, municipal or other local law enforcement agency on an incentive or quota basis;

(J) If a violation occurs, the state, county, municipal or other local law enforcement agency shall, within two (2) hours, make reasonable efforts to confront the seller with the minor, if practical, and further, within forty eight

(48) hours, contact or take all reasonable steps to contact the owner or manager of the establishment;

(K) The state, county, municipal or other

local law enforcement agency shall maintain records of each visit to an establishment where a minor is used by the state, county, municipal or other local law enforcement agency for a period of at least one (1) year following the incident, regardless of whether a violation occurs at each visit, and such records shall, at a minimum, include the following information:

1. The signed consent form of the minor's parent or legal guardian;

2. A Polaroid photograph of the minor taken immediately prior to the operation;

3. A photocopy of the minor's valid identification, showing the minor's correct date of birth;

4. An Information and Consent document completed by the minor in advance of the operation in the following form:

### Minor Information and Consent

State of Missouri       )  
COUNTY of \_\_\_\_\_)

Before me, the undersigned authority, on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, personally appeared \_\_\_\_\_, who by me is known and who after being by me first duly sworn did depose and state:

1. I am \_\_\_\_\_, a minor, and was born on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_.  
My address is \_\_\_\_\_.  
My driver's license number is \_\_\_\_\_ in the State of \_\_\_\_\_.  
My Social Security number is \_\_\_\_\_.  
My parents'/legal guardians' names are \_\_\_\_\_.  
My home telephone number is \_\_\_\_\_.

2. I do hereby agree to assist the \_\_\_\_\_  
in the investigation of offenses involving the unlawful sale of tobacco products in this state. I understand that I will be entering locations in which tobacco products are sold and that I will attempt to purchase tobacco products, but only under the direction and supervision of agents of the \_\_\_\_\_.

3. I understand that I may wear an audio recording or transmitting device which will record or transmit oral conversations while I am attempting the purchase of tobacco products, and I consent to wearing such. I also consent to the video recording of my activities during these attempts.

4. I understand and agree that I may be required to appear and testify in court and/or in an administrative proceeding concerning the purchase of tobacco products or other criminal or administrative violations and that said appearance and testimony may be required in Jefferson City or another location in this state.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Notary Public



5. The name of each establishment visited by the minor, and the date and time of each visit;
6. The audiotape or videotape specified in subsection (1) (E) above; and
7. A written Minor Report in the following form:

<b>Minor Report</b>	
Date of Purchase: _____	Time of Purchase: _____ a.m./p.m
Name of Establishment: _____	
Address: (street and city) _____ (County) _____	
Approximate Age of Seller: _____ Sex of Seller: _____	
Hair Color of Seller: _____ Clothing of Seller: _____	
Sellers' Actions (did or did not ask for I.D.): _____	
Description of Product and Brand Purchased: _____	
Quantity: _____ Price: _____	
Conversation with Seller: _____	
Other Details: _____	
_____ Minor's Signature	

(L) The state, county, municipal or other local law enforcement agency must provide pre-recorded currency to the minor, to be used in the operation, and, if a violation occurs, must make all reasonable efforts to retrieve the pre-recorded currency. If a violation occurs, said agency shall further secure and inventory any tobacco products purchased; and

(M) The state, county, municipal or other local law enforcement agency must, in advance of the operation, train the minor who will be used in the operation, which training shall, at a minimum, include i) instruction to enter the designated establishment and to proceed immediately to attempt to purchase tobacco products; ii) instruction to provide the minor's valid identification upon a request for identification by the seller; iii) instruction to answer truthfully all questions about age; iv) instruction not to lie to the seller to induce a sale of tobacco products; v) instruction on the use of pre-recorded currency; and vi) instruction on the other matters set out in this regulation.

*AUTHORITY: section 407.934.5, RSMo Supp. 2001. \* Original rule filed Sept. 27, 2001, effective March 30, 2002.*

*\*Original authority: 407.934, RSMo 2001.*

**MISSOURI'S  
"ABUSE AND LOSE"  
LAW**

**Chapter 302, RSMo  
STATE OF MISSOURI**

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## Chapter 302

### Abuse and Lose

#### Sections:

- 302.400. Suspension or revocation of driving privileges, persons under twenty-one years of age — violation of certain laws — surrender of licenses — court to forward to director of revenue — period of suspension; Effective 1-01-17**
- 302.405. Revocation of driving privileges, persons over twenty-one years of age — possession or use of drug in motor vehicle — surrender of licenses — court shall forward order to department of revenue; Effective 1-01-17**
- 302.410. Director of revenue to suspend or revoke license, when — hardship driving privileges may be granted, procedure — temporary instruction permits allowed, when.; Effective 1-01-17**
- 302.415. Failure to surrender licenses, certain law enforcement officer may seize. ; Effective 1-01-17**
- 302.420. License reinstatement, substance abuse traffic offender program — professional assessment — supplemental fee, disposition, failure to remit, penalty.; Effective 1-01-17**
- 302.425. Completion of substance abuse traffic offender program, persons under twenty-one years of age, required, when, standards by department of mental health; Effective 1-01-17**
- 302.426. Department of revenue — rules and regulations; Effective 1-01-17**

**302.400. Suspension or revocation of driving privileges, persons under twenty-one years of age — violation of certain laws — surrender of licenses — court to forward to director of revenue — period of suspension.**

1. A court of competent jurisdiction shall, upon a finding of guilt, or, if the court is a juvenile court, upon a finding of fact that the offense was committed by a juvenile, enter an order suspending or revoking the driving privileges of any person determined to have committed one of the following offenses and who, at the time said offense was committed, was under twenty-one years of age:

(1) Any alcohol-related traffic offense in violation of state law or a county or municipal ordinance, where the defendant was represented by an attorney or waived the right to an attorney in writing;

(2) Any offense in violation of state law or a county or municipal ordinance, where the defendant was represented by an attorney or waived the right to an attorney in writing, involving the possession or use of alcohol, committed while operating a motor vehicle;

(3) Any offense involving the possession or use of a controlled substance as defined in chapter 195 in violation of state law or a county or municipal ordinance, where the defendant was represented by an attorney or waived the right to an attorney in writing;

(4) Any offense involving the alteration, modification, or misrepresentation of a license to operate a motor vehicle in violation of section 311.328;

(5) Any subsequent offense in violation of state law or a county or municipal ordinance, where the defendant was represented by, or waived in writing the right to, an attorney, involving the possession or use of alcohol; except that a determination of guilt or its equivalent shall have been made for the first offense and both offenses shall have been committed by the person when the person was under eighteen years of age.

2. A court of competent jurisdiction shall, upon a finding of guilt, or, if the court is a juvenile court, upon a finding of fact that the offense was committed by a juvenile, enter an order suspending or revoking the driving privileges of any person determined to have committed a violation of section 311.325 and who, at the time said violation was committed, was more than fifteen years of age and under twenty-one years of age.

3. The court shall require the person against whom a court has entered an order suspending or revoking driving privileges under subsections 1 and 2 of this section to surrender any license to operate a motor vehicle, temporary instruction permit, intermediate driver's license, or any other driving privilege then held by such person.

4. The court, if other than a juvenile court, shall forward to the director of revenue the order of suspension or revocation of driving privileges and any licenses, temporary instruction permits, intermediate driver's licenses, or any other driving privilege acquired under subsection 3 of this section.

5. (1) Notwithstanding chapter 211 to the contrary, the court, if a juvenile court, shall forward to the director of revenue the order of suspension or revocation of driving privileges and any licenses, temporary instruction permits, intermediate driver's licenses, or any other driving privilege acquired under subsection 3 of this section for any person sixteen years of age or older.

(2) Notwithstanding chapter 211 to the contrary, the court, if a juvenile court, shall hold the order of suspension or revocation of driving privileges for any person less than sixteen years of age until thirty days before the person's sixteenth birthday, at which time the juvenile court shall forward to the director of revenue the order of suspension or revocation of driving privileges.

6. The period of suspension for a first offense under subsection 1 of this section shall be ninety days. Any second or subsequent offense under subsection 1 of this section shall result in revocation of the offender's driving privileges for one year. The period of suspension for a first offense under subsection 2 of this section shall be thirty days. The period of suspension for a second offense under subsection 2 of this section shall be ninety days. Any third or subsequent offense under subsection 2 of this section shall result in revocation of the offender's driving privileges for one year.

(L. 1987 S.B. 230 § 1, A.L. 1991 S.B. 125 & 341, A.L. 2005 H.B. 353 merged with S.B. 37, et al. merged with S.B. 402, A.L. 2014 S.B. 491)

Transferred 2014; formerly 577.500; Effective 1-01-17

**302.405. Revocation of driving privileges, persons over twenty-one years of age — possession or use of drug in motor vehicle — surrender of licenses — court shall forward order to department of revenue.**

A court of competent jurisdiction shall enter an order revoking the driving privileges of any person determined to have violated any state, county, or municipal law involving the possession or use of a controlled substance, as defined in chapter 195, while operating a motor vehicle and who, at the time said offense was committed, was twenty-one years of age or older. The court shall require the person to surrender to the court all operator's and chauffeur's licenses then held by such person. The court shall forward to the director of revenue the order of revocation of driving privileges and any licenses surrendered.

(L. 1987 S.B. 230 § 2, A.L. 2014 S.B. 491)

Transferred 2014; formerly 577.505; Effective 1-01-17

**302.410. Director of revenue to suspend or revoke license, when — hardship driving privileges may be granted, procedure — temporary instruction permits allowed, when.**

1. Upon receipt of a court order suspending or revoking the driving privileges of a person under sections 302.400 and 302.405, the director of revenue shall suspend the driving privileges for ninety days or revoke the driving privileges of such person for a period of one year, provided however, that in the case of a person who at the time of the offense was less than sixteen years of age, the period of suspension or revocation shall commence on that person's sixteenth birthday. The provisions of this chapter to the contrary notwithstanding, the suspension or revocation shall be imposed without further hearing. Any person whose driving privileges have been suspended or revoked under sections 302.400 and 302.405 may petition the circuit court for a hardship driving privilege and said application shall be determined and administered in the same manner as allowed in section 302.309.

2. The director of revenue shall permit the issuance of a temporary instruction permit in the same manner as allowed in subsection 3 of section 302.130 to persons fifteen years of age and under seventeen years of age denied driving privileges by court order pursuant to section 302.400. This exception only applies to instruction permits that entitle a person to operate a motor vehicle on the highways in the presence of an authorized instructor.

(L. 1987 S.B. 230 § 3, A.L. 1991 S.B. 125 & 341, A.L. 2014 S.B. 491)

Transferred 2014; formerly 577.510; Effective 1-01-17

**302.415. Failure to surrender licenses, certain law enforcement officer may seize.**

If a person shall neglect or refuse to surrender all operator's and chauffeur's licenses, as provided for in sections 302.400 and 302.405, the director shall direct the state highway patrol or any peace or police officer to secure possession thereof and return such license or licenses to the director.

(L. 1987 S.B. 230 § 4, A.L. 2014 S.B. 491)

Transferred 2014; formerly 577.515; Effective 1-01-17

**302.420. License reinstatement, substance abuse traffic offender program — professional assessment — supplemental fee, disposition, failure to remit, penalty..**

1. No person who has had his or her license suspended or revoked under the provisions of sections 302.400 and 302.405 shall have that license reinstated until he or she has paid a twenty-dollar reinstatement fee and has successfully completed a substance abuse traffic offender program as defined in section 302.010.

2. The fees for the substance abuse traffic offender program, or a portion thereof to be determined by the division of alcohol and drug abuse of the department of mental health, shall be paid by the person enrolled in the program. Any person who is enrolled in the program shall pay, in addition to any fee charged for the program, a supplemental fee to be determined by the department of mental health for the purposes of funding the substance abuse traffic offender program defined in section 302.010, or a program determined to be comparable by the department of mental health. The administrator of the program shall remit to the division of alcohol and drug abuse of the department of mental health on or before the fifteenth of each month the supplemental fees for all persons enrolled in the program, less two percent for administrative costs. Interest shall be charged on any unpaid balance of the supplemental fees due the division of alcohol and drug abuse pursuant to this section and shall accrue at a rate not to exceed the annual rates established pursuant to the provisions of section 32.065 plus three percentage points. The supplemental fees and any interest

received by the department of mental health pursuant to this section shall be deposited in the mental health earnings fund which is created in section 630.053.

3. Any administrator who fails to remit to the division of alcohol and drug abuse of the department of mental health the supplemental fees and interest for all persons enrolled in the program pursuant to this section shall be subject to a penalty equal to the amount of interest accrued on the supplemental fees due the division pursuant to this section. If the supplemental fees, interest, and penalties are not remitted to the division of alcohol and drug abuse of the department of mental health within six months of the due date, the attorney general of the state of Missouri shall initiate appropriate action to collect said fees and any accrued interest. The court shall assess attorney fees and court costs against any delinquent program.

(L. 1987 S.B. 230 § 5, A.L. 1991 S.B. 125 & 341, A.L. 1993 S.B. 167, A.L. 1996 H.B. 1169 & 1271 merged with S.B. 722, A.L. 2003 H.B. 600, A.L. 2014 S.B. 491)  
Transferred 2014; formerly 577.520; Effective 1-01-17

**302.425. Completion of substance abuse traffic offender program, persons under twenty-one years of age, required, when, standards by department of mental health.**

Any court which has jurisdiction over violations of state, county or municipal laws shall enter an order, in addition to other orders authorized by law, requiring the completion of a substance abuse traffic offender program as defined in section 302.010, as a part of the judgment entered in the case, for any person determined to have violated a state, county, or municipal law involving the possession or use of alcohol and who at the time of said offense was under twenty-one years of age when the court, if a juvenile court, finds that the offense was committed by such person or, if a city, county, or state court, when the person pleads guilty, or is found guilty of such offense by the court.

(L. 1987 S.B. 230 § 6, A.L. 1991 S.B. 125 & 341, A.L. 1996 H.B. 1169 & 1271 merged with S.B. 722, A.L. 2014 S.B. 491)

Transferred 2014; formerly 577.525; Effective 1-01-17

**302.426. Department of revenue — rules and regulations.**

The director of revenue shall have authority to make such rules and regulations as he or she deems necessary for the administration of sections 302.400 to 302.425. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after January 1, 2017, shall be invalid and void.

(L. 1987 S.B. 230 § 7, A.L. 1993 S.B. 52, A.L. 1995 S.B. 3, A.L. 2014 S.B. 491)

Transferred 2014; formerly 577.530; Effective 1-01-17